

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

SB 183 thru SE 190 70

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SENATE COMMITTEE REPORT

FURTHER:

4/21/87

DATE TURNED INTO OFFICE 4/29/87

Mr. President:

FINANCE Committee considered SB 183

dams and reservoirs; efd,

and recommended:

[] replace with CS FOR _____) [x] same title
[x] or adopt _____ CS FOR SB 183 (Res)) [] new title

[] attached amendment(s) and

[x] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[x] letter of intent adopted Trsp Intent

Committee [x] attached or [] adopted fiscal note(s)

[] new [] updated or [x] previous
[] zero [x] fiscal impact (yes funds)

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

[Signature] DO PASS
Chairman signature and recommendation

[] Committee Backup Attached

No 203

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

SENATE
BILL VERSION: SB 183 a
PUBLISH DATE: 4/3/87

REQUEST: _____

Revision Date: _____

Title: An act relating to dams and reservoirs

Sponsor: Sturgulavski

Requestor: _____

Agency Affected: Natural Resources

BRU: Land and Water Management

Component: Land and Water Public Use

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	65.0	65.0	65.0	65.0	65.0
OTHER	0	0	0	0	0	0
TOTAL	65.0	65.0	65.0	65.0	65.0	65.0

POSITIONS:

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

ANALYSIS :

Senate Bill No. 183 will qualify DNR's Dam Safety Program to qualify for at least 65.0 federal funding under P.L. 99-662 for five years. No increases in state expenditures will occur as a result of this legislation.

Prepared by: Kyle J. Cherry
Division: Land and Water Management.

Phone: 562-3332
Date: 3/26/87

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):

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

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: SB 183
Publish Date: _____

Revision Date: _____
Title: "An Act relating to dams and
reservoirs..."
Sponsor: Sen. Sturgulewski
Requestor: Senate Transportation

Agency Affected: Department of Law
BRU: Prosecution, Legal Services

Components: Prosecution - All
Legal Services - Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: March 18, 1987
Approved by Commissioner: Grace Berg Schaible, Atty. Gen. Date: March 18, 1987
Agency: Department of Law

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

RECEIVED
MAR 19 1987

LEGISLATIVE FINANCE

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 183

This bill amends AS 46 by adding a new chapter that establishes a dam safety Act, which provides for the regulation, supervision, and periodic inspection of privately owned and state-owned dams and reservoirs. The Department of Law would assist the Department of Natural Resources to administer the Act by securing court injunctions needed to halt unsafe practices, and by prosecuting misdemeanor violations.

Although some of this work will undoubtedly be required, it is our view that such work will entail only a few occurrences each year, and it will not be sufficient to warrant fiscal note costs.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : SB 183
Publish Date : _____

Revision Date: _____
Title: Relating to dams and reservoirs

Agency Affected: Environmental Conservation
BRU: N.A.

Sponsor: Senator Sturquilewski
Requestor: Senator Jones--Transportation

Components: N.A.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

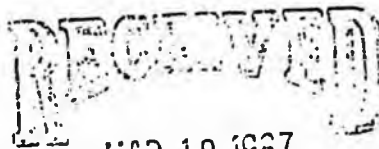
Prepared by: Randy Bayliss
Division: Office of the Commissioner

Phone: 465-2600
Date: March 17, 1987

Approved by Commissioner: _____
Agency: Environmental Conservation

Date: 3/18/87

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary



MAR 18 1987

4-15 153

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly



P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

COMMITTEE REPORT

Madame President:

The transportation committee expresses that it is not the intent, either through Senate Bill 183, nor through regulations, that the bill affect settling ponds of small placer miners.

The transportation committee also asks to see and review the regulations that are promulgated to implement the legislation.

Sincerely,

 4/2/87

Senator Lloyd Jones, Chairman
Senate Transportation Committee

Original sponsor: Sturgulewski

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 183 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to dams and reservoirs; and provid-
7 ing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 11.56.800(a) is amended to read:
10 (a) A person commits the crime of making a false report if the
11 person knowingly
12 (1) gives false information to a peace officer with the
13 intent of implicating another in a crime;
14 (2) makes a false report to a peace officer that a crime
15 has occurred or is about to occur; [OR]
16 (3) makes a false report or gives a false alarm that a fire
17 or other incident dangerous to life or property calling for an emer-
18 gency response has occurred or is about to occur; or
19 (4) makes a false report to the Department of Natural
20 Resources under AS 46.17 concerning the condition of a dam or reser-
21 voir.
22 * Sec. 2. AS 46 is amended by adding a new chapter to read:
23 CHAPTER 17. SUPERVISION OF SAFETY OF DAMS AND RESERVOIRS.
24 Sec. 46.17.010. PURPOSE. It is the purpose of this chapter to
25 provide for the regulation, supervision, and periodic inspection by
26 the department of privately owned and state-owned dams, reservoirs,
27 and appurtenant works in order to ensure that the design, construc-
28 tion, enlargement, alteration, repair, maintenance, operation, and
29 removal of dams and reservoirs is consistent with the protection of

1 life and property.

2 Sec. 46.17.020. ADMINISTRATION AND STAFFING. The department
3 shall supervise the safety of dams and reservoirs. The department
4 shall employ a licensed and qualified engineer, experienced in the
5 design and construction of dams and reservoirs, and other employees
6 necessary for performing the duties under this chapter. Under AS 36.-
7 30 (State Procurement Code), the department may contract with engi-
8 neering consultants to assist in the performance of the department's
9 duties under this chapter.

10 Sec. 46.17.030. REGULATIONS AND ORDERS. The department shall
11 adopt regulations and issue orders necessary to carry out this chap-
12 ter.

13 Sec. 46.17.040. APPROVAL REQUIRED. (a) Except in the perfor-
14 mance of routine maintenance and operations not affecting structural
15 safety, a person may not construct, enlarge, repair, alter, remove,
16 maintain, operate, or abandon a dam or reservoir without the approval
17 of the department.

18 (b) The owner of a dam or reservoir that was constructed before
19 the effective date of this Act shall, under regulations adopted by the
20 department, file an application with the department for the approval
21 of the dam or reservoir.

22 (c) An applicant under this section shall comply with the re-
23 quirements of other applicable statutes.

24 Sec. 46.17.050. INSPECTIONS. At least once every five years the
25 department shall inspect every dam and reservoir that is subject to
26 this chapter. The department may require the owner of a dam or reser-
27 voir to perform the required inspection, according to the department's
28 inspection standards, using a qualified engineer approved by the
29 department. To protect public safety, the department may inspect, or

1 may require the owner to inspect, a dam or reservoir more frequently
2 than every five years. The department may require the owner of the
3 dam or reservoir to pay the cost of an inspection under this section.

4 Sec. 46.17.060. ENTRY UPON PROPERTY. (a) If the department has
5 given two weeks' written notice of intent to inspect a dam or reser-
6 voir and the owner refuses to allow the inspection, the department may
7 seek a search warrant to allow the inspection. If the department has
8 been refused inspection of drawings, operational records, or other
9 information concerning a dam or reservoir, the department may seek an
10 administrative subpoena compelling production of the drawings, opera-
11 tional records, or other information.

12 (b) If the department has reason to believe that a dam or reser-
13 voir may be unsafe or presents an imminent threat to life or property,
14 the department may enter the dam or reservoir premises without notice.

15 Sec. 46.17.070. DETERMINING DANGER. In determining whether a
16 dam or reservoir, or proposed dam or reservoir, constitutes or would
17 constitute a danger to life or property, the department shall consider
18 whether the structural integrity of the dam or reservoir might be
19 endangered by overtopping, seepage, settlement, erosion, cracking,
20 earth movement, earthquakes, or the failure of bulkheads, flashboards,
21 gates, or conduits. The department may consider other relevant con-
22 ditions. If it determines that the dam or reservoir is unsafe, the
23 department shall order the owner to take the action that the depart-
24 ment considers necessary to protect life and property.

25 Sec. 46.17.080. INJUNCTION AND DAMAGES. With the assistance of
26 the attorney general, the department may seek an injunction and dam-
27 ages in the enforcement of this chapter, a department order issued
28 under this chapter, or a regulation adopted under AS 46.17.030.

29 Sec. 46.17.090. JUDICIAL REVIEW. A final action of the

1 department under this chapter is subject to judicial review as pro-
2 vided in the Administrative Procedure Act (AS 44.62).

3 Sec. 46.17.100. OTHER GOVERNMENT AGENCIES. (a) The department
4 may enter into cooperative agreements with municipalities and other
5 state and federal agencies to carry out this chapter.

6 (b) If the action would conflict with the powers and duties
7 vested in the department, a municipality may not

8 (1) regulate, supervise, inspect, or provide for the regu-
9 lation, supervision, or inspection of a dam or reservoir;

10 (2) provide for the construction, maintenance, operation,
11 removal, or abandonment of a dam or reservoir; or

12 (3) limit the size of or the amount of water that may be
13 stored in a dam or reservoir.

14 (c) This chapter does not apply to a federally-owned or operated
15 dam or reservoir or a dam or reservoir regulated by the Federal Energy
16 Regulatory Commission.

17 (d) This chapter does not affect the powers of the Department of
18 Environmental Conservation or the Department of Fish and Game.

19 Sec. 46.17.110. ACTION AGAINST STATE FOR DAMAGES. (a) Except
20 as provided in (b) of this section, a person may not bring an action
21 against the state, the department, or agents or employees of the
22 state, for the recovery of damages caused by the partial or total
23 failure of a dam or reservoir, or by the operation of a dam or reser-
24 voir, or by an act or omission in connection with

25 (1) approval of the construction of a dam or reservoir, or
26 approval of flood-handling plans during or after construction;

27 (2) issuance or enforcement of orders relating to mainte-
28 nance or operation of the dam or reservoir;

29 (3) control or regulation of the dam or reservoir;

1 (4) measures taken to protect against failure of the dam or
2 reservoir during an emergency; or

3 (5) investigations or inspections authorized under this
4 chapter.

5 (b) A person may bring an action against the state for the
6 recovery of damages caused by an action undertaken by a dam owner that
7 was negligently ordered by the state over the owner's objection.

8 Sec. 46.17.120. DUTIES OF OWNER. This chapter does not relieve
9 an owner of a dam or reservoir of the duties or liabilities incident
10 to the ownership or operation of the dam or reservoir.

11 Sec. 46.17.150. PENALTIES. (a) A person is guilty of a class A
12 misdemeanor if the person knowingly

13 (1) violates a provision of this chapter,

14 (2) violates the terms of an approval, order, regulation,
15 or requirement of the department under this chapter; or

16 (3) obstructs, hinders, or prevents the department's agents
17 or employees from performing duties under this chapter.

18 (b) Each day that a violation continues constitutes a separate
19 offense.

20 Sec. 46.17.900. DEFINITIONS. In this chapter, unless the con-
21 text requires otherwise,

22 (1) "alteration" means only an alteration that might di-
23 rectly affect the safety of the dam or reservoir, as determined by the
24 department;

25 (2) "appurtenant works" includes structures including
26 spillways, either in a dam or separate from it; a reservoir and its
27 rim; low level outlet works; and water conduits including tunnels,
28 pipelines, or penstocks, whether running through the dam or through
29 its abutments;

1 (3) "dam" includes an artificial barrier, and its appurte-
2 nant works, which may impound or divert water and which

3 (A) has or will have an impounding capacity at maximum
4 water storage elevation of 50 acre-feet and is at least 10 feet
5 in height measured from the lowest point at either the upstream
6 or downstream toe of the dam to the crest of the dam;

7 (B) is at least 20 feet in height measured from the
8 lowest point at either the upstream or downstream toe of the dam
9 to the crest of the dam; or

10 (C) poses a threat to lives and property as determined
11 by the department after an inspection;

12 (4) "department" means the Department of Natural Resources;

13 (5) "enlargement" means an alteration of an existing dam or
14 reservoir that raises or is capable of raising the water storage
15 elevation, or that increases the quantity of water impounded by the
16 dam or reservoir;

17 (6) "owner" means a person who owns, controls, operates,
18 maintains, manages, or proposes to construct a dam or reservoir, and
19 includes

20 (A) a public utility; and

21 (B) the appointed or authorized agents, employees,
22 lessees, receivers, or trustees of an owner;

23 (7) "person" has the meaning given in AS 01.10.060, and
24 includes the state and political subdivisions of the state, including
25 the Alaska Railroad Corporation and the University of Alaska;

26 (8) "repair" means only a repair that might directly affect
27 the safety of the dam or reservoir, as determined by the department;

28 (9) "reservoir" means a basin, appurtenant to a dam, that
29 is capable of impounding water.

1 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of March 26, 1987-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: RESOURCES
FINANCE

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

3/12/87

DATE TURNED INTO OFFICE April 2, 1987

Mr. President:

TRANSPORTATION

Committee considered SB 183

dams and reservoirs; efd.

and recommended:

[] replace with CS _____ [] same title
[] new title

[] attached amendment(s) and

majority
 do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

letter of intent adopted and attached

** Committee attached or [] adopted fiscal note(s)
2 zero and one fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Tim 1987
[Signature]
[Signature]

[Signature] Do Pass
Chairman signature and recommendation

Committee Backup Attached

1 IN THE SENATE

BY STURGULEWSKI

2

SENATE BILL NO. 183

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to dams and reservoirs; and provid-
7 ing for an effective date."

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

9 * Section 1. AS 11.56.800(a) is amended to read:

10 (a) A person commits the crime of making a false report if the
11 person knowingly

12 (1) gives false information to a peace officer with the
13 intent of implicating another in a crime;

14 (2) makes a false report to a peace officer that a crime
15 has occurred or is about to occur; [OR]

16 (3) makes a false report or gives a false alarm that a fire
17 or other incident dangerous to life or property calling for an emer-
18 gency response has occurred or is about to occur; or

19 (4) makes a false report to the Department of Natural
20 Resources under AS 46.17 concerning the condition of a dam or reser-
21 voir.

22 * Sec. 2. AS 46 is amended by adding a new chapter to read:

23 CHAPTER 17. SUPERVISION OF SAFETY OF DAMS AND RESERVOIRS.

24 Sec. 46.17.010. PURPOSE. It is the purpose of this chapter to
25 provide for the regulation, supervision, and periodic inspection by
26 the department of privately owned and state-owned dams, reservoirs,
27 and appurtenant works in order to ensure that the design, construc-
28 tion, enlargement, alteration, repair, maintenance, operation, and
29 removal of dams and reservoirs is consistent with the protection of

1 life and property.

2 Sec. 46.17.020. ADMINISTRATION AND STAFFING. The department
3 shall supervise the safety of dams and reservoirs. The department
4 shall employ a licensed and qualified engineer, experienced in the
5 design and construction of dams and reservoirs, and other employees
6 necessary for performing the duties under this chapter. Under AS 36.-
7 30 (State Procurement Code), the department may contract with engi-
8 neering consultants to assist in the performance of the department's
9 duties under this chapter.

10 Sec. 46.17.030. REGULATIONS AND ORDERS. The department shall
11 adopt regulations and issue orders necessary to carry out this chap-
12 ter.

13 Sec. 46.17.040. APPROVAL REQUIRED. (a) Except in the perfor-
14 mance of routine maintenance and operations not affecting structural
15 safety, a person may not construct, enlarge, repair, alter, remove,
16 maintain, operate, or abandon a dam or reservoir without the approval
17 of the department.

18 (b) The owner of a dam or reservoir that was constructed before
19 the effective date of this Act shall, under regulations adopted by the
20 department, file an application with the department for the approval
21 of the dam or reservoir.

22 (c) An applicant under this section shall comply with the re-
23 quirements of other applicable statutes.

24 Sec. 46.17.050. INSPECTIONS. At least once every five years the
25 department shall inspect every dam and reservoir that is subject to
26 this chapter. The department may require the owner of a dam or reser-
27 voir to perform the required inspection, according to the department's
28 inspection standards, using a qualified engineer approved by the
29 department. To protect public safety, the department may inspect, or

1 may require the owner to inspect, a dam or reservoir more frequently
2 than every five years. The department may require the owner of the
3 dam or reservoir to pay the cost of an inspection under this section.

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5 given two weeks' written notice of intent to inspect a dam or reser-
6 voir and the owner refuses to allow the inspection, the department may
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8 been refused inspection of drawings, operational records, or other
9 information concerning a dam or reservoir, the department may seek an
10 administrative subpoena compelling production of the drawings, opera-
11 tional records, or other information.

12 (b) If the department has reason to believe that a dam or reser-
13 voir may be unsafe or presents an imminent threat to life or property,
14 the department may enter the dam or reservoir premises without notice.

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16 dam or reservoir, or proposed dam or reservoir, constitutes or would
17 constitute a danger to life or property, the department shall consider
18 whether the structural integrity of the dam or reservoir might be
19 endangered by overtopping, seepage, settlement, erosion, cracking,
20 earth movement, earthquakes, or the failure of bulkheads, flashboards,
21 gates, or conduits. The department may consider other relevant con-
22 ditions. If it determines that the dam or reservoir is unsafe, the
23 department shall order the owner to take the action that the depart-
24 ment considers necessary to protect life and property.

25 Sec. 46.17.080. INJUNCTION AND DAMAGES. With the assistance of
26 the attorney general, the department may seek an injunction and dam-
27 ages in the enforcement of this chapter, a department order issued
28 under this chapter, or a regulation adopted under AS 46.17.030.

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1 department under this chapter is subject to judicial review as pro-
2 vided in the Administrative Procedure Act (AS 44.62).

3 Sec. 46.17.100. OTHER GOVERNMENT AGENCIES. (a) The department
4 may enter into cooperative agreements with municipalities and other
5 state and federal agencies to carry out this chapter.

6 (b) If the action would conflict with the powers and duties
7 vested in the department, a municipality may not

8 (1) regulate, supervise, inspect, or provide for the regu-
9 lation, supervision, or inspection of a dam or reservoir;

10 (2) provide for the construction, maintenance, operation,
11 removal, or abandonment of a dam or reservoir; or

12 (3) limit the size of or the amount of water that may be
13 stored in a dam or reservoir.

14 (c) This chapter does not apply to a federally-owned or operated
15 dam or reservoir.

16 (d) This chapter does not affect the powers of the Department of
17 Environmental Conservation or the Department of Fish and Game.

18 Sec. 46.17.110. ACTION AGAINST STATE FOR DAMAGES. (a) Except
19 as provided in (b) of this section, a person may not bring an action
20 against the state, the department, or agents or employees of the
21 state, for the recovery of damages caused by the partial or total
22 failure of a dam or reservoir, or by the operation of a dam or reser-
23 voir, or by an act or omission in connection with

24 (1) approval of the construction of a dam or reservoir, or
25 approval of flood-handling plans during or after construction;

26 (2) issuance or enforcement of orders relating to mainte-
27 nance or operation of the dam or reservoir;

28 (3) control or regulation of the dam or reservoir;

29 (4) measures taken to protect against failure of the dam or

1 reservoir during an emergency; or

2 (5) investigations or inspections authorized under this
3 chapter.

4 (b) A person may bring an action against the state for the
5 recovery of damages caused by an action undertaken by a dam owner that
6 was negligently ordered by the state over the owner's objection.

7 Sec. 46.17.120. DUTIES OF OWNER. This chapter does not relieve
8 an owner of a dam or reservoir of the duties or liabilities incident
9 to the ownership or operation of the dam or reservoir.

10 Sec. 46.17.150. PENALTIES. (a) A person is guilty of a class A
11 misdemeanor if the person knowingly

12 (1) violates a provision of this chapter,

13 (2) violates the terms of an approval, order, regulation,
14 or requirement of the department under this chapter; or

15 (3) obstructs, hinders, or prevents the department's agents
16 or employees from performing duties under this chapter.

17 (b) Each day that a violation continues constitutes a separate
18 offense.

19 Sec. 46.17.900. DEFINITIONS. In this chapter, unless the con-
20 text requires otherwise,

21 (1) "alteration" means only an alteration that might di-
22 rectly affect the safety of the dam or reservoir, as determined by the
23 department;

24 (2) "appurtenant works" includes structures including
25 spillways, either in a dam or separate from it; a reservoir and its
26 rim; low level outlet works; and water conduits including tunnels,
27 pipelines, or penstocks, whether running through the dam or through
28 its abutments;

29 (3) "dam" includes an artificial barrier, and its

1 appurtenant works, which may impound or divert water and which

2 (A) has or will have an impounding capacity at maximum
3 water storage elevation of 50 acre-feet and is at least 10 feet
4 in height measured from the lowest point at either the upstream
5 or downstream toe of the dam to the crest of the dam;

6 (B) is at least 20 feet in height measured from the
7 lowest point at either the upstream or downstream toe of the dam
8 to the crest of the dam; or

9 (C) poses a threat to lives and property as determined
10 by the department after an inspection;

11 (4) "department" means the Department of Natural Resources;

12 (5) "enlargement" means an alteration of an existing dam or
13 reservoir that raises or is capable of raising the water storage
14 elevation, or that increases the quantity of water impounded by the
15 dam or reservoir;

16 (6) "owner" means a person who owns, controls, operates,
17 maintains, manages, or proposes to construct a dam or reservoir, and
18 includes

19 (A) a public utility; and

20 (B) the appointed or authorized agents, employees,
21 lessees, receivers, or trustees of an owner;

22 (7) "person" has the meaning given in AS 01.10.060, and
23 includes the state and political subdivisions of the state, including
24 the Alaska Railroad Corporation and the University of Alaska;

25 (8) "repair" means only a repair that might directly affect
26 the safety of the dam or reservoir, as determined by the department;

27 (9) "reservoir" means a basin, appurtenant to a dam, that
28 is capable of impounding water.

29 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 27, 1987

SUBJECT: Sectional Analysis of SB 183
(Dams and reservoirs)

TO: Senator Arliss Sturgulewski
Chairman, Community and Regional Affairs
Committee

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 imposes criminal penalties for knowingly making a false report to the Department of Natural Resources concerning the condition of a dam or reservoir.

Section 2 adds a new chapter concerning dam and reservoir safety.

Sec. 36.17.010 sets out the legislative purpose.

Sec. 46.17.020 gives the Department of Natural Resources responsibility for supervising the safety of dams and reservoirs.

Sec. 46.17.030 requires the department to adopt regulations and issue orders necessary to carry out the chapter.

Sec. 46.17.040 prohibits construction, repair, or removal of a dam or reservoir unless the department approves. Routine maintenance and operations are excepted.

*Back-up SB183
Sectional Analysis*

Sec. 46.17.050 directs the department to inspect each dam and reservoir subject to the chapter once every five years and permits the department to inspect more frequently. The department may require the owner to perform the inspection or pay for the cost of an inspection performed by the department.

Sec. 46.17.060 permits the department to seek a search warrant to allow an inspection if the department has given two weeks' written notice. The department may enter premises without notice if a dam or reservoir is believed to be unsafe.

Sec. 46.17.070 sets out standards for the department's determination of whether a dam or reservoir constitutes or would constitute a danger to life or property.

Sec. 46.17.080 permits the department to seek an injunction and damages in enforcing the chapter.

Sec. 46.17.090 subjects a final action of the department to judicial review under the Administrative Procedure Act.

Sec. 46.17.100 permits the department to enter into cooperative agreements with other governments and prohibits municipalities from exercising powers that conflict with the powers and duties given the department. Under subsections (c) and (d), the chapter does not apply to a federally-owned or operated dam or reservoir and does not affect the powers of the Department of Environmental Conservation or the Department of Fish and Game.

Sec. 46.17.110 limits actions against the state. An action may be maintained against the state if the state negligently orders a dam owner to perform an action and the dam owner complies with the order but objected to it.

Sec. 46.17.120 acknowledges that the chapter does not relieve an owner of a dam or reservoir of the duties or liabilities incident to the ownership or operation of the dam or reservoir.

Sec. 46.17.150 imposes penalties on persons who knowingly violate the chapter, an approval, order, regulation, or requirement of the department, or who obstruct performance of duties.

Senator Sturgulewski
Page 3
March 27, 1987

Sec. 46.17.900 is a definition section.

Section 3 is an immediate effective date clause.

If I may be of further assistance, please advise.

TBC:mkr
m10/065

March 30, 1987

The Honorable Arliss Sturgulewski
Sponsor of Senate Bill 183
Alaska State Legislature
P.O. Box V
Juneau, AK 99801

Dear Senator Sturgulewski:

Subject: Senate Bill 183, relating to supervision of safety of dams and reservoirs.

Position: The Department of Natural Resources recommends the passage of Senate Bill 183.

Background: Currently, there are 185 dams on Alaska's dam inventory. In 1981, the U.S. Department of the Army, Corps of Engineers, ended its dam safety program for non-federal dams in Alaska. There are but 20 federal dams in Alaska. The remaining dams are covered under a minimal dam safety program the Department of Natural Resources, division of land and water management, established through regulations. The department adopted regulations in 11 AAC 93 under the authority of several sections in AS 46.15, the Alaska Water Use Act, including a provision in AS 46.15.080 which gives the commissioner authority to regulate water diversions.

Alaska Water Resources Board resolution 84-4, dated March 14, 1984, recommended review of the existing statutory authority under which dams in the state are regulated by the division.

About half of the 50 states have enacted specific dam safety legislation, but most of these states did so in response to dam failures resulting in loss of life and extensive property damage. Clearly it would be advantageous for Alaska to have a well-founded, comprehensive dam safety statutory scheme and program in effect to prevent such tragedies from occurring here. SB 183 is based on the Model Law for State Supervision of Safety of Dams and Reservoirs drafted by the United States Committee on Large Dams of the International Commission on Large Dams.

DNR Testimony

Section 2, which contains the body of the bill, creates a new ch. 17 in AS 46. Proposed AS 46.17.010 first states the purpose of the chapter. It then makes the supervision of safety of dams and reservoirs the responsibility of the Department of Natural Resources. The commissioner of that department is directed to employ a qualified engineer experienced in the design and construction of dams and reservoirs to direct the dam safety program. Proposed AS 46.17.040 would make it unlawful for anyone to construct, enlarge, repair, alter, remove, maintain, operate, or abandon a dam or reservoir, as defined in the bill, except upon application to, and approval of, the department. To ensure that dams and reservoirs remain safe once constructed, the department is directed in proposed AS 46.17.050 to inspect or to require owners to inspect dams and reservoirs covered under the bill at least once every five years, or more frequently if necessary. To ensure that it can make adequate inspections, the department is also given authority, in proposed AS 46.17.060, to enter the private property on which the dam or reservoir is located as might be necessary to make the inspection. Proposed AS 46.17.050 also authorizes the department to require owners to bear the costs of inspection.

Proposed AS 46.17.070 sets out specific standards for determining the safety of a dam or reservoir. In addition, the department is allowed, by proposed AS 46.17.110, to enter into cooperative management agreements with municipal corporations and other state and federal agencies to effectuate its responsibilities under the bill. To ensure that the state's action in inspecting and regulating the operation of dams or reservoirs does not shift the liability of the private owner to the state for loss of life or property damage due to a dam or reservoir failure, proposed AS 46.17.120 bars any action against the state based on any purported act or omission of a state agent or employee connected with the dam safety program.

Section 1 of the bill amends AS 11.56.800(a), dealing with the crime of making a false report. A new paragraph (4) will make it a crime to file a false report with the Department of Natural Resources concerning the condition of a dam or reservoir. Additional criminal sanctions are also contained in sec. 2 of the bill in proposed AS 46.17.100, which would make it a class A misdemeanor to violate any provision of AS 46.17 or lawful order the department issues under AS 46.17.

The Honorable Arliss Sturgulewski -3-

March 30, 1987

Recommendation: Given the importance of a good dam safety program to the State of Alaska, the Department of Natural Resources favors passage of this legislation.

Sincerely,

Judith M. Brady
Commissioner

cc: Senate Transportation Committee
George Sullivan
Rod Swope

SENATE COMMITTEE REPORT

FURTHER:

FINANCE

4/3/87

DATE TURNED INTO OFFICE _____

Mr. President:

RESOURCES

Committee considered

SB 183

dams and reservoirs; efd.

and recommended:

replace with CS FOR SB 183 (res)) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted transportation

Committee attached or adopted fiscal note(s)

new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Julius Stangulovich
James D. ...
...
Paul Grish

John ... DO/PASS
Chairman signature and recommendation

Committee Backup Attached

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee
Vice-Chairman, Senate Judiciary Committee
Member, Senate Resources Committee

2957 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508


Write in Juneau
P. O. BOX 4
JUNEAU, ALASKA 99811
(907) 465-1818

Senate

MEMORANDUM

March 28, 1987

TO: Senator Lloyd Jones, Chairman
Senate Transportation Committee

FROM: Senator Arliss Sturgulewski 
Senate District F

RE: SB 183 "An Act relating to dams and reservoirs and providing for
an effective date."

Thank you for scheduling a hearing on SB 183 "An Act relating to dams and reservoirs and providing for an effective date."

Senate Bill 183 was before the legislature last year and extensive hearings were held. However at the end of last session the bill was still in the Senate Finance Committee. Senate Bill 183 sets up a formal system of regulation of dams by the Department of Natural Resources (DNR). Presently the DNR only has clear authority to regulate construction activities and no clear authority to monitor the safety of dams throughout the life of the dam. This legislation is based on a Model State Dam Safety Program sponsored by the Association of State Dam Safety Officials and the Council of State Governments. The main purpose of this legislation is to protect the public health and safety.

In order to assist states in the implementation of a dam safety program, the federal government will make funds available through PL 99-662. Alaska would be eligible to receive at least \$65,000 per year for the next five years.

I have enclosed a sectional analysis prepared by the Legislative Legal Services Division and a recent Wall Street Journal article discussing dam safety. My staff is available to assist if you need additional information.

Enclosures

C S S S B

/ 8 3

HOUSE COMMITTEE REPORT

(11)

Date referred: 5/12/87

FURTHER REFERRALS:

5/15 Rules

DATE: 5-15-87

The Finance Committee has considered CSSB 183(Res)

"An Act relating to dams and reservoirs; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: SENATE letter of intent
TRANS. COMM.

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

W. G. ...
Pat Kouchot
Ronald J. Linn
Ed ...
Mark ... - pass this dam bill -
Steve ...
Ken ...
Kay ...
Tony ...
Mike ...

SIGNING OTHER RECOMMENDATIONS:

John ...

Albert ...
Chairman's signature

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly



P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

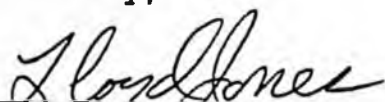
COMMITTEE REPORT

Madame President:

The transportation committee expresses that it is not the intent, either through Senate Bill 183, nor through regulations, that the bill affect settling ponds of small placer miners.

The transportation committee also asks to see and review the regulations that are promulgated to implement the legislation.

Sincerely,

 4/2/87

Senator Lloyd Jones, Chairman
Senate Transportation Committee

No. 203

FX

STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

SENATE
BILL VERSION: SB 183 a
PUBLISH DATE: 4/3/87

REQUEST: _____

Revision Date: _____

Title: An act relating to dams and
reservoirs

Sponsor: Spurgenlausk

Requestor: _____

Agency Affected: Natural Resources

BRU: Land and Water Management

Component: Land and Water Public Use

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	65.0	65.0	65.0	65.0	65.0
OTHER	0	0	0	0	0	0
TOTAL	65.0	65.0	65.0	65.0	65.0	65.0

POSITIONS:

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

ANALYSIS :

Senate Bill No. 183 will qualify DNR's Dam Safety Program to qualify for at least 65.0 federal funding under P.L. 99-662 for five years. No increases in state expenditures will occur as a result of this legislation.

Prepared by: Ryle J. Cherry Phone: 562-3332
Division: Land and Water Management. Date: 3/26/87

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):

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

10205

STATE OF ALASKA 1987 LEGISLATIVE SESSION
 FISCAL NOTE

SENATE
 BILL VERSION: SB 183 c
 PUBLISH DATE: 4/3/87

REQUEST: _____

Revision Date: _____
 Title: "An Act relating to dams and reservoirs..."
 Sponsor: Sen. Sturewulski
 Requestor: Senate Transportation

Agency Affected: Department of Law
 BRU: Prosecution, Legal Services

Components: Prosecution - All
Legal Services - Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS :

Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: March 18, 1987
 Approved by Commissioner: Grace Berg Schaible, Atty. Gen. Date: March 18, 1987
 Agency: Department of Law

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For. Bill/Resolution No. SB 183 c

This bill amends AS 46 by adding a new chapter that establishes a dam safety Act, which provides for the regulation, supervision, and periodic inspection of privately owned and state-owned dams and reservoirs. The Department of Law would assist the Department of Natural Resources to administer the Act by securing court injunctions needed to halt unsafe practices, and by prosecuting misdemeanor violations.

Although some of this work will undoubtedly be required, it is our view that such work will entail only a few occurrences each year, and it will not be sufficient to warrant fiscal note costs.

No. 204

FX

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

SENATE

BILL VERSION: SB 183 b
PUBLISH DATE: 4/3/87

REQUEST: _____

Revision Date: _____

Title: Relating to dams and reservoirs

Sponsor: Senator Sturgulewski

Requestor: Senator Jones--Transportation

Agency Affected: Environmental Conservation
BRU: N.A.

Components: N.A.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

Prepared by: Randy Bayliss

Phone: 465-2600

Division: Office of the Commissioner

Date: March 17, 1987

Approved by Commissioner: _____

Date: 5/18/87

Agency: Environmental Conservation

Distribution (by preparer):

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

Original sponsor: Sturgulewski

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 183 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to dams and reservoirs; and provid-
7 ing for an effective date."

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

9 * Section 1. AS 11.56.800(a) is amended to read:

10 (a) A person commits the crime of making a false report if the
11 person knowingly

12 (1) gives false information to a peace officer with the
13 intent of implicating another in a crime;

14 (2) makes a false report to a peace officer that a crime
15 has occurred or is about to occur; [OR]

16 (3) makes a false report or gives a false alarm that a fire
17 or other incident dangerous to life or property calling for an emer-
18 gency response has occurred or is about to occur; or

19 (4) makes a false report to the Department of Natural
20 Resources under AS 46.17 concerning the condition of a dam or reser-
21 voir.

22 * Sec. 2. AS 46 is amended by adding a new chapter to read:

23 CHAPTER 17. SUPERVISION OF SAFETY OF DAMS AND RESERVOIRS.

24 Sec. 46.17.010. PURPOSE. It is the purpose of this chapter to
25 provide for the regulation, supervision, and periodic inspection by
26 the department of privately owned and state-owned dams, reservoirs,
27 and appurtenant works in order to ensure that the design, construc-
28 tion, enlargement, alteration, repair, maintenance, operation, and
29 removal of dams and reservoirs is consistent with the protection of

1 life and property.

2 Sec. 46.17.020. ADMINISTRATION AND STAFFING. The department
3 shall supervise the safety of dams and reservoirs. The department
4 shall employ a licensed and qualified engineer, experienced in the
5 design and construction of dams and reservoirs, and other employees
6 necessary for performing the duties under this chapter. Under AS 36.-
7 30 (State Procurement Code), the department may contract with engi-
8 neering consultants to assist in the performance of the department's
9 duties under this chapter.

10 Sec. 46.17.030. REGULATIONS AND ORDERS. The department shall
11 adopt regulations and issue orders necessary to carry out this chap-
12 ter.

13 Sec. 46.17.040. APPROVAL REQUIRED. (a) Except in the perfor-
14 mance of routine maintenance and operations not affecting structural
15 safety, a person may not construct, enlarge, repair, alter, remove,
16 maintain, operate, or abandon a dam or reservoir without the approval
17 of the department.

18 (b) The owner of a dam or reservoir that was constructed before
19 the effective date of this Act shall, under regulations adopted by the
20 department, file an application with the department for the approval
21 of the dam or reservoir.

22 (c) An applicant under this section shall comply with the re-
23 quirements of other applicable statutes.

24 Sec. 46.17.050. INSPECTIONS. At least once every five years the
25 department shall inspect every dam and reservoir that is subject to
26 this chapter. The department may require the owner of a dam or reser-
27 voir to perform the required inspection, according to the department's
28 inspection standards, using a qualified engineer approved by the
29 department. To protect public safety, the department may inspect, or

1 may require the owner to inspect, a dam or reservoir more frequently
2 than every five years. The department may require the owner of the
3 dam or reservoir to pay the cost of an inspection under this section.

4 Sec. 46.17.060. ENTRY UPON PROPERTY. (a) If the department has
5 given two weeks' written notice of intent to inspect a dam or reser-
6 voir and the owner refuses to allow the inspection, the department may
7 seek a search warrant to allow the inspection. If the department has
8 been refused inspection of drawings, operational records, or other
9 information concerning a dam or reservoir, the department may seek an
10 administrative subpoena compelling production of the drawings, opera-
11 tional records, or other information.

12 (b) If the department has reason to believe that a dam or reser-
13 voir may be unsafe or presents an imminent threat to life or property,
14 the department may enter the dam or reservoir premises without notice.

15 Sec. 46.17.070. DETERMINING DANGER. In determining whether a
16 dam or reservoir, or proposed dam or reservoir, constitutes or would
17 constitute a danger to life or property, the department shall consider
18 whether the structural integrity of the dam or reservoir might be
19 endangered by overtopping, seepage, settlement, erosion, cracking,
20 earth movement, earthquakes, or the failure of bulkheads, flashboards,
21 gates, or conduits. The department may consider other relevant con-
22 ditions. If it determines that the dam or reservoir is unsafe, the
23 department shall order the owner to take the action that the depart-
24 ment considers necessary to protect life and property.

25 Sec. 46.17.080. INJUNCTION AND DAMAGES. With the assistance of
26 the attorney general, the department may seek an injunction and dam-
27 ages in the enforcement of this chapter, a department order issued
28 under this chapter, or a regulation adopted under AS 46.17.030.

29 Sec. 46.17.090. JUDICIAL REVIEW. A final action of the

1 department under this chapter is subject to judicial review as pro-
2 vided in the Administrative Procedure Act (AS 44.62).

3 Sec. 46.17.100. OTHER GOVERNMENT AGENCIES. (a) The department
4 may enter into cooperative agreements with municipalities and other
5 state and federal agencies to carry out this chapter.

6 (b) If the action would conflict with the powers and duties
7 vested in the department, a municipality may not

8 (1) regulate, supervise, inspect, or provide for the regu-
9 lation, supervision, or inspection of a dam or reservoir;

10 (2) provide for the construction, maintenance, operation,
11 removal, or abandonment of a dam or reservoir; or

12 (3) limit the size of or the amount of water that may be
13 stored in a dam or reservoir.

14 (c) This chapter does not apply to a federally-owned or operated
15 dam or reservoir or a dam or reservoir regulated by the Federal Energy
16 Regulatory Commission.

17 (d) This chapter does not affect the powers of the Department of
18 Environmental Conservation or the Department of Fish and Game.

19 Sec. 46.17.110. ACTION AGAINST STATE FOR DAMAGES. (a) Except
20 as provided in (b) of this section, a person may not bring an action
21 against the state, the department, or agents or employees of the
22 state, for the recovery of damages caused by the partial or total
23 failure of a dam or reservoir, or by the operation of a dam or reser-
24 voir, or by an act or omission in connection with

25 (1) approval of the construction of a dam or reservoir, or
26 approval of flood-handling plans during or after construction;

27 (2) issuance or enforcement of orders relating to mainte-
28 nance or operation of the dam or reservoir;

29 (3) control or regulation of the dam or reservoir;

1 (4) measures taken to protect against failure of the dam or
2 reservoir during an emergency; or

3 (5) investigations or inspections authorized under this
4 chapter.

5 (b) A person may bring an action against the state for the
6 recovery of damages caused by an action undertaken by a dam owner that
7 was negligently ordered by the state over the owner's objection.

8 Sec. 46.17.120. DUTIES OF OWNER. This chapter does not relieve
9 an owner of a dam or reservoir of the duties or liabilities incident
10 to the ownership or operation of the dam or reservoir.

11 Sec. 46.17.150. PENALTIES. (a) A person is guilty of a class A
12 misdemeanor if the person knowingly

13 (1) violates a provision of this chapter,

14 (2) violates the terms of an approval, order, regulation,
15 or requirement of the department under this chapter; or

16 (3) obstructs, hinders, or prevents the department's agents
17 or employees from performing duties under this chapter.

18 (b) Each day that a violation continues constitutes a separate
19 offense.

20 Sec. 46.17.900. DEFINITIONS. In this chapter, unless the con-
21 text requires otherwise,

22 (1) "alteration" means only an alteration that might di-
23 rectly affect the safety of the dam or reservoir, as determined by the
24 department;

25 (2) "appurtenant works" includes structures including
26 spillways, either in a dam or separate from it; a reservoir and its
27 rim; low level outlet works; and water conduits including tunnels,
28 pipelines, or penstocks, whether running through the dam or through
29 its abutments;

1 (3) "dam" includes an artificial barrier, and its appurte-
2 nant works, which may impound or divert water and which

3 (A) has or will have an impounding capacity at maximum
4 water storage elevation of 50 acre-feet and is at least 10 feet
5 in height measured from the lowest point at either the upstream
6 or downstream toe of the dam to the crest of the dam;

7 (B) is at least 20 feet in height measured from the
8 lowest point at either the upstream or downstream toe of the dam
9 to the crest of the dam; or

10 (C) poses a threat to lives and property as determined
11 by the department after an inspection;

12 (4) "department" means the Department of Natural Resources;

13 (5) "enlargement" means an alteration of an existing dam or
14 reservoir that raises or is capable of raising the water storage
15 elevation, or that increases the quantity of water impounded by the
16 dam or reservoir;

17 (6) "owner" means a person who owns, controls, operates,
18 maintains, manages, or proposes to construct a dam or reservoir, and
19 includes

20 (A) a public utility; and

21 (B) the appointed or authorized agents, employees,
22 lessee~~s~~, receivers, or trustees of an owner;

23 (7) "person" has the meaning given in AS 01.10.060, and
24 includes the state and political subdivisions of the state, including
25 the Alaska Railroad Corporation and the University of Alaska;

26 (8) "repair" means only a repair that might directly affect
27 the safety of the dam or reservoir, as determined by the department;

28 (9) "reservoir" means a basin, appurtenant to a dam, that
29 is capable of impounding water.

1 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee
Vice-Chairman, Senate Judiciary Committee
Member, Senate Resources Committee

2957 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508

White in Juneau
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3818

Senate

MEMORANDUM

May 12, 1987

TO: Al Adams, Chairman
House Finance Committee

FROM: Senator Arliss Sturgulewski *AS*
Senate District F

RE: SB 183 "An Act relating to dams and reservoirs and providing for an effective date."

Senate Bill 183 "An Act relating to dams and reservoirs and providing for an effective date" has been referred to your committee and I would like to provide some background material.

Senate Bill 183 was before the legislature last year and extensive hearings were held. However the session ended before all committees could address this issue. Senate Bill 183 sets up a formal system of regulation of dams by the Department of Natural Resources (DNR). Presently the DNR only has clear authority to regulate construction activities and no clear authority to monitor the safety of dams throughout the life of the dam. This legislation is based on a Model State Dam Safety Program sponsored by the Association of State Dam Safety Officials and the Council of State Governments. The main purpose of this legislation is to protect the public health and safety.

In order to assist states in the implementation of a dam safety program, the federal government will make funds available through PL 99-662. Alaska would be eligible to receive at least \$65,000 per year for the next five years. There is a zero fiscal impact on state funding.

I have enclosed a sectional analysis prepared by the Legislative Legal Services Division; a DNR position paper supporting this legislation; fiscal notes from the Department of Natural Resources, Environmental Conservation, and Law; a letter of intent from Senate Transportation; and a recent Wall Street Journal article. My staff is available to assist if you need additional information.

There have been public hearings in the Senate Transportation Committee, the Senate Resources Committee and the House Resources Committee on this bill and there has been no opposition. Since this bill has a zero fiscal note, I hope you will be able to schedule an early hearing. Thank you.

Enclosures

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 27, 1987

SUBJECT: Sectional Analysis of SB 183
(Dams and reservoirs)

TO: Senator Arliss Sturgulewski
Chairman, Community and Regional Affairs
Committee

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 imposes criminal penalties for knowingly making a false report to the Department of Natural Resources concerning the condition of a dam or reservoir.

Section 2 adds a new chapter concerning dam and reservoir safety.

Sec. 36.17.010 sets out the legislative purpose.

Sec. 46.17.020 gives the Department of Natural Resources responsibility for supervising the safety of dams and reservoirs.

Sec. 46.17.030 requires the department to adopt regulations and issue orders necessary to carry out the chapter.

Sec. 46.17.040 prohibits construction, repair, or removal of a dam or reservoir unless the department approves. Routine maintenance and operations are excepted.

Senator Sturgulewski
Page 2
March 27, 1987

Sec. 46.17.050 directs the department to inspect each dam and reservoir subject to the chapter once every five years and permits the department to inspect more frequently. The department may require the owner to perform the inspection or pay for the cost of an inspection performed by the department.

Sec. 46.17.060 permits the department to seek a search warrant to allow an inspection if the department has given two weeks' written notice. The department may enter premises without notice if a dam or reservoir is believed to be unsafe.

Sec. 46.17.070 sets out standards for the department's determination of whether a dam or reservoir constitutes or would constitute a danger to life or property.

Sec. 46.17.080 permits the department to seek an injunction and damages in enforcing the chapter.

Sec. 46.17.090 subjects a final action of the department to judicial review under the Administrative Procedure Act.

Sec. 46.17.100 permits the department to enter into cooperative agreements with other governments and prohibits municipalities from exercising powers that conflict with the powers and duties given the department. Under subsections (c) and (d), the chapter does not apply to a federally-owned or operated dam or reservoir and does not affect the powers of the Department of Environmental Conservation or the Department of Fish and Game.

Sec. 46.17.110 limits actions against the state. An action may be maintained against the state if the state negligently orders a dam owner to perform an action and the dam owner complies with the order but objected to it.

Sec. 46.17.120 acknowledges that the chapter does not relieve an owner of a dam or reservoir of the duties or liabilities incident to the ownership or operation of the dam or reservoir.

Sec. 46.17.150 imposes penalties on persons who knowingly violate the chapter, an approval, order, regulation, or requirement of the department, or who obstruct performance of duties.

Senator Sturgulewski
Page 3
March 27, 1987

Sec. 46.17.900 is a definition section.

Section 3 is an immediate effective date clause.

If I may be of further assistance, please advise.

TBC:mkr
m10/065

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

OFFICE OF THE COMMISSIONER

March 31, 1987

APR 1 1987

The Honorable Arliss Sturgulewski
Sponsor of Senate Bill 183
Alaska State Legislature
P.O. Box V
Juneau, AK 99801

Dear Senator Sturgulewski:

Subject: Senate Bill 183, relating to supervision of safety of dams and reservoirs.

Position: The Department of Natural Resources recommends the passage of Senate Bill 183.

Background: Currently, there are 185 dams on Alaska's dam inventory. In 1981, the U.S. Department of the Army, Corps of Engineers, ended its dam safety program for non-federal dams in Alaska. There are but 20 federal dams in Alaska. The remaining dams are covered under a minimal dam safety program the Department of Natural Resources, division of land and water management, established through regulations. The department adopted regulations in 11 AAC 93 under the authority of several sections in AS 46.15, the Alaska Water Use Act, including a provision in AS 46.15.080 which gives the commissioner authority to regulate water diversions.

Alaska Water Resources Board resolution 84-4, dated March 14, 1984, recommended review of the existing statutory authority under which dams in the state are regulated by the division.

About half of the 50 states have enacted specific dam safety legislation, but most of these states did so in response to dam failures resulting in loss of life and extensive property damage. Clearly it would be advantageous for Alaska to have a well-founded, comprehensive dam safety statutory scheme and program in effect to prevent such tragedies from occurring here. SB 183 is based on the Model Law for State Supervision of Safety of Dams and Reservoirs drafted by the United States Committee on Large Dams of the International Commission on Large Dams.

Section 2, which contains the body of the bill, creates a new ch. 17 in AS 46. Proposed AS 46.17.010 first states the purpose of the chapter. It then makes the supervision of safety of dams and reservoirs the responsibility of the Department of Natural Resources. The commissioner of that department is directed to employ a qualified engineer experienced in the design and construction of dams and reservoirs to direct the dam safety program. Proposed AS 46.17.040 would make it unlawful for anyone to construct, enlarge, repair, alter, remove, maintain, operate, or abandon a dam or reservoir, as defined in the bill, except upon application to, and approval of, the department. To ensure that dams and reservoirs remain safe once constructed, the department is directed in proposed AS 46.17.050 to inspect or to require owners to inspect dams and reservoirs covered under the bill at least once every five years, or more frequently if necessary. To ensure that it can make adequate inspections, the department is also given authority, in proposed AS 46.17.060, to enter the private property on which the dam or reservoir is located as might be necessary to make the inspection. Proposed AS 46.17.050 also authorizes the department to require owners to bear the costs of inspection.

Proposed AS 46.17.070 sets out specific standards for determining the safety of a dam or reservoir. In addition, the department is allowed, by proposed AS 46.17.110, to enter into cooperative management agreements with municipal corporations and other state and federal agencies to effectuate its responsibilities under the bill. To ensure that the state's action in inspecting and regulating the operation of dams or reservoirs does not shift the liability of the private owner to the state for loss of life or property damage due to a dam or reservoir failure, proposed AS 46.17.120 bars any action against the state based on any purported act or omission of a state agent or employee connected with the dam safety program.

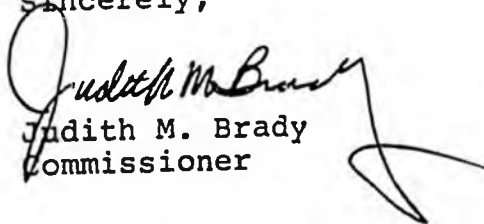
Section 1 of the bill amends AS 11.56.800(a), dealing with the crime of making a false report. A new paragraph (4) will make it a crime to file a false report with the Department of Natural Resources concerning the condition of a dam or reservoir. Additional criminal sanctions are also contained in sec. 2 of the bill in proposed AS 46.17.100, which would make it a class A misdemeanor to violate any provision of AS 46.17 or lawful order the department issues under AS 46.17.

The Honorable Arliss Sturgulewski -3-

March 31, 1987

Recommendation: Given the importance of a good dam safety program to the State of Alaska, the Department of Natural Resources favors passage of this legislation.

Sincerely,


Judith M. Brady
Commissioner

cc: Senate Transportation Committee
George Sullivan
Rod Swope

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly



P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee


COMMITTEE REPORT

Madame President:

The transportation committee expresses that it is not the intent, either through Senate Bill 183, nor through regulations, that the bill affect settling ponds of small placer miners.

The transportation committee also asks to see and review the regulations that are promulgated to implement the legislation.

Sincerely,

 4/2/87

Senator Lloyd Jones, Chairman
Senate Transportation Committee

WESTERN STATES WATER



220 South 2nd East, Suite 200 Salt Lake City, Utah, 84111 (801) 521-2800

A weekly report prepared by the staff of the Western States Water Council

Tony Willardson — Editor

WATER RESOURCES

Issue #671, March 27, 1987

Dam Safety

On March 19, the Wall Street Journal carried a front page article on dam safety. It addressed progress and problems in current federal and state programs. Of some 80,000 U.S. dams, about 10% are owned or regulated by federal agencies. The rest are controlled by state and local governments and private interests. On the state level, a Federal Emergency Management Agency (FEMA) report lists 1948 unsafe dams, down from 2,900 in 1981. California's regulatory program involves a staff of 60 and a \$3.8M budget. Pennsylvania also has an exemplary program. Over five years, the number of unsafe dams in the state has been reduced from 208 to 72, in part with the help of \$50M in low interest state loans, usually under consent agreements. However, nationally, state program expenditures average \$265,000 a year. The FEMA survey found only 21 states with adequate regulatory dam safety programs. Many are underfunded or undermanned. Alabama, Delaware and Hawaii have no dam safety programs. During this era of tight budgets, expenditures for dam safety programs or repairs are not always a high priority. The Corps FY88 budget request includes no funding for the newly authorized non-federal dam safety program grants under P.L. 99-662. Further, from 1981 to 1984, the Corps of Engineers undertook only two safety related dam modifications. Reportedly 20% of the Bureau of Reclamation's 300 dams are classified as unsafe. While the Bureau has increased its request for dam safety funds, since 1980 only about 11% of \$750M authorized for safety modifications has been spent.

High hazard dams, or those where failure would mean the loss of life, are of greatest concern. Political pressure for federal action probably peaked after the 1976 Teton Dam disaster in Idaho, which killed eleven people. The article notes that in the 1970's, "nearly 500 people died in six major U.S. dam breaks." There have been few fatalities in the 1980's. However, according to William Bivins, FEMA Dam Safety Coordinator, "One of these times, Mother Luck isn't going to hold. One of these high hazard dams is going to pop at night when everyone is asleep in bed. It will wipe out hundreds of people." Joseph Ellam, Pennsylvania's Director of Dam Safety and past president of the Association of State Dam Safety Officials (ASDSO), notes, "Catastrophic failures have occurred before and they will occur again. With the exception of nuclear powerplants, no man-made structure has a greater potential for killing a large number of people than a dam." In Pennsylvania, the Greater Johnstown Water Authority is under order to fix or dismantle its Salt Lick Dam. The dam is located near the site where a dam failed during the great Johnstown flood of 1889, which killed 2,200 people.

How safe is safe? This question is not easily answered. Federal guidelines require federal dams to withstand the "maximum credible earthquake," and have a spillway capacity to pass the "probable maximum flood." Defining and implementing these requirements leaves substantial room for professional disagreement. William Gianelli, former Assistant Secretary of the Army for Civil Works and former Director of the California Department of Water Resources, states the Corps could never explain to his satisfaction how it calculated the probable maximum flood. According to the Corps, if Prado Dam on the Santa Anna River above Los Angeles failed during the probable maximum flood, it would inundate 1.3 million homes with \$40B in damages. However, Gianelli notes, "That dam has been there fifty years. It has never filled to the point where the spillway is even used. You fix a dam if it's leaking." In 1983, the West Pinopolos Dam in South Carolina suddenly sprang an enormous leak. While police evacuated downstream residents, emergency personnel worked feverishly to stop

the leak, finally using a makeshift dam of pile-driven utility poles. Owned by the South Carolina Public Service Authority, a state-owned utility, the dam is 30 miles above Charleston on the Cooper River. According to Ronald Corso, Director of the Inspections Division for the Federal Energy Regulatory Commission, if the dam failed, some 2,000 residents "wouldn't have time to run for their lives." While the dam is now in good repair, Corso says an extraordinary earthquake, such as hit Charleston in 1886, could liquefy the dam's foundation. The resulting flood would cause an estimated \$1B in damages to a major industrial corridor, the Charleston Naval Yard and the Atlantic Fleet's Nuclear-weapons Arsenal, finally clogging Charleston Harbor with silt and closing this key Navy port. Under federal pressure, the utility has agreed to strengthen the dam. According to Corso, "We don't care where they get the money, so long as they fix it."

This raises another problem. How do you finance needed dam safety repair work? In 1984, a survey by the Western States Water Council identified 665 dams in fifteen western states with safety problems. The rough cost estimate for rehabilitation totaled over \$316M. Private financial sources are often limited or unavailable. Dam safety work seldom produces new revenues to pay back bonds. State and local budgets are also tight. The Reagan Administration has opposed federal funding for non-federal dam safety work. As a result, last year Congress dropped from the Corps omnibus legislation provisions authorizing federal financial and technical assistance, including allowing the Corps of Engineers to repair non-federal dams on a reimbursable basis. However, as illustrated above, the impact of a non-federal dam failure could have a tremendous impact on national interests. Without government funding and regulatory action, with respect to many dams, we are at Mother Nature's mercy. According to Charles Gardner, ASDSO President, "We need to get the message across that dam safety deserves a high priority (see WSW #664)."

Reclamation Act/Surplus Crops

On March 5, Representative Sam Gejdenson (D-CT), introduced the Irrigation Subsidy Reform Act of 1987 (H.R. 1443). The bill would amend the Reclamation Projects Act of 1939 to require the Secretary of Interior to charge full cost for the delivery of water used "in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provision of the Agricultural Act of 1949 (7 U.S.C. 1421 et sec.)." The term "full cost" would be defined by Section 202(3) of the Reclamation Reform Act of 1982 (43 U.S.C. 390(b)(3)). This change would apply to all new or amended contracts after the date of enactment. The Secretary would set the amount of the "full cost" payment, for the succeeding year, on or before July 1 of each year. In addition to Mr. Gejdenson, H.R. 1443 has twenty-one co-sponsors from the States of California, Connecticut, Illinois, Indiana, Iowa, Massachusetts, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, Vermont and Wisconsin. Given the apparent concern over subsidizing production of surplus crops, it is interesting to note that many of the above states have a vested interest in this issue. For FY84, federal expenditures for Commodity Credit Corporation price supports and related programs were highest in the following twelve states, which are listed by rank: California, Pennsylvania, Illinois, New York, Indiana, Michigan, Texas, Ohio, Kentucky, Louisiana, and Minnesota. The 99th Congress authorized a study of production of surplus crops in reclamation states in passing H.R. 3113, which also authorized an additional \$600M for the Bureau of Reclamation's Small Projects Loan Program (see WSW #648).

WESTERN STATES WATER COUNCIL

Water Policy Seminar

On Thursday, April 30, in conjunction with its 86th quarterly meetings, the Western States Water Council will sponsor a Water Policy Seminar in Washington, D.C. The Seminar will be held at the Hall of the States, Rooms 263-265, 444 North Capitol Street. The meeting is scheduled from 9:00 a.m. to 3:45 p.m. At 4:30 p.m., the Council will sponsor a reception in the Senate Dirksen Office Building. Topics to be considered are Ground Water Quality Protection, the Federal Role in Water Transfers, and FERC Hydropower Licensing and State Water Law. A variety of speakers have been invited to participate. Call (801) 521-2800 for more information.

THE WALL STREET JOURNAL

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WESTERN EDITION

THURSDAY, MARCH 19, 1987

FEDERAL WAY, WASHINGTON

Flood Watch

Dams' Safety Worries Officials Who Believe Repairs Are Lagging

Earthquakes and Other Risks
Give Nightmares to Some
Despite a Recent Respite

Stitching Up a TVA Crack

By BRUCE INGERSOLL

Staff Reporter of THE WALL STREET JOURNAL
MONCKS CORNER, S.C. — The 1983 dam scare here is remembered as "the peril at Pinopolis."

On a languid summer morning, the West Pinopolis Dam suddenly sprang an enormous leak, setting off alarms in the powerhouse. While the police rapped on doors to evacuate downstream residents, emergency workers struggled to keep the huge dam from collapsing. They tried plugging the leak with weighted bales of hay. They tried steel plates. Increasingly desperate, they bought a furniture store's entire stock of mattresses, only to find them too buoyant. Finally, they slapped together a makeshift dam with pile-driven utility poles.

A disaster was averted—for the time being. But federal dam regulators worry that West Pinopolis is one of many dams around the country that would collapse if a severe earthquake hit. Hundreds of dams couldn't withstand a major flood. Thousands more have fallen into disrepair, some leaking or slumping so badly that they are in danger of collapse.

"One of these times, Mother Luck isn't going to hold," warns William Elvins, the dam safety coordinator for the Federal Emergency Management Agency. "One of these high-hazard dams is going to pop at night when everybody is asleep in bed. It will wipe out hundreds of people."

Recent Dam Breaks

But to some top officials, warnings about dam disasters are overblown, and in most states public interest in dam safety is low. In the 1970s, nearly 500 people died in six major U.S. dam breaks, but in the 1980s the fatalities have been few in this country, though a 1985 dam break in Italy killed more than 220 people.

Meanwhile, dam-safety initiatives have been stymied by tight budgets, bureaucratic inertia and the lack of a political constituency. "All of our constituents are dead people," says safety advocate Bruce Tschantz, a professor of civil engineering at the University of Tennessee.

Of the 80,000 or so dams in the U.S., about 8,000 are owned or regulated by federal agencies. The rest are owned by farmers, ranchers, developers, utilities or states and municipalities. Most major dams are owned and maintained by big agencies such as the Pentagon's Army Corps of Engineers and the Interior Department's Bureau of Reclamation.

The bureau is still haunted by the 1976 collapse of the Teton Dam in Idaho as it was being filled for the first time, killing 11 people. One-fifth of the bureau's 300 dams, all in the West, are classified as unsafe. Critics say the bureau doesn't treat dam safety as a priority. Bureau officials disagree, but since 1980 the agency has spent only 11% of \$750 million authorized by Congress for safety "modifications."

Internal documents obtained from the Corps of Engineers, meanwhile, show that a superflood would overwhelm at least 20 of that agency's 600 dams, engulfing such communities as Houston and Valley City, N.D. The corps is also studying how well several structures, including two dikes on the Clemson University campus in South Carolina, would hold up in a major earthquake. If the dikes failed, the football stadium, dubbed "Death Valley" by Clemson's foes, would be swamped. Overall, "We are concerned about 36 dams," says Lloyd Duscha, the corps' deputy director of engineering and construction.

Remedial efforts have been limited, however. Some cost-conscious Reagan administration appointees haven't shared agency engineers' sense of urgency. "Bureaucratic engineers always try to figure out a way to perpetuate themselves and build up their budgets," asserts William Glaselli, who in recent years oversaw the corps as assistant Army secretary for civil works.

Underfunded and Undermanned

On the state level, the number of unsafe dams has been reduced to 1,948 from about 2,900 in 1981, according to a survey for the Federal Emergency Management Agency. Many dam owners simply dismantled their aging structures rather than make repairs. But the survey says that only 21 states have adequate regulatory programs and that the rest are underfunded and undermanned.

For Joseph Ellam, Pennsylvania's director of dam safety, the situation is unsettling. "Catastrophic failures have occurred before, and they will occur again," he warns. "With the exception of nuclear power plants, no man-made structure has a greater potential for killing a large number of people than a dam."

The West Pinopolis Dam, 30 miles from Charleston, S.C., is one such dam.

Although the dam now is in good repair, earthquake experts believe it would fail in the event of an earthquake as powerful as the devastating Charleston earthquake of 1886, which killed 86 persons and caused panic as far away as Cleveland.

If the dam failed, some 2,000 residents along the Cooper River "wouldn't have any time to run for their lives," says Ronald Corso, the director of hydropower licensing for the Federal Energy Regulatory Com-

Please Turn to Page 18, Column 1

Flood Watch: The Safety of Some Dams Worries Officials Who Believe Earthquakes Pose Big Threat

Continued From First Page

mission. The flood would engulf the Charleston Naval Yard and the Atlantic Fleet's nuclear-weapons arsenal as well as a major industrial corridor, causing \$1 billion in damage. It would also clog Charleston's harbor with silt, closing a key port for the Navy.

The dam is vulnerable to an extraordinary phenomenon known as "liquefaction." Mr. Corso says. Seismic shock waves could "liquefy" the sand in the dam's foundation, turning it into quicksand or "mush." The shuddering dam would quickly slump, spilling the waters of Lake Moultrie in a thunderous rush.

The dam's owner, South Carolina Public Service Authority, also known as Santee Cooper, calls the chance of such a disaster remote, but the state-owned utility, under federal pressure, has agreed to strengthen the dam. "We don't care where they get the money so long as they fix it," Mr. Corso says.

Other Worries

The energy regulatory commission has worries about more than 100 of the 2,000 dams it regulates and has ordered several utilities to make repairs. Montana Power Co., for one, is rehabilitating an ice-battered dam near Missoula to protect the Clark Fork River. It holds back tons of toxic smelting waste in the bottom silt. Mr. Corso says. "If you dump that waste down the river, it will be the biggest mess known to mankind."

The Tennessee Valley Authority has pared its list of unsafe dams to 14 from 21. Flooding Fontana Dam in western North Carolina is a high priority. At 480 feet, Fontana is the tallest dam east of the Rocky Mountains. The upper part of the dam needs reinforcing against a major earthquake. And an alarming 100-foot-long crack in the concrete has reopened and requires restitching with cables.

In Wyoming, Reclamation Bureau officials are keeping close watch on the badly leaking Fontenelle Dam on the Green River. The same sort of seepage that caused a near-failure in 1965 is undermining the dam. The officials are keeping the reservoir level as low as possible, rather than risk degrading Green River, Wyo. (population: 13,000), but they admit to being at "Mother Nature's mercy."

Last summer, so much melted snow came down from the mountains that officials couldn't discharge water fast enough to keep the reservoir from refilling. "We baby-sat that dam night and day," says one Reclamation Bureau official. "We had two bulldozer operators there 24 hours a day."

Support Is Lacking

For years, federal officials in the field have been warning their superiors about Fontenelle and other deteriorating dams. But cumbersome cost-sharing arrangements and resistance from the White House budget office have limited the Reclamation Bureau's efforts to a few projects. While the agency has begun budgeting more money for dam safety, many other projects will have to wait.

"It takes a long time to get momentum building behind a program, especially when it doesn't have high administration

support," says Neil Parrett, the bureau's chief of dam design. "We all could do better. But I celebrate the progress we've made to reduce the threat out there."

The Reclamation Bureau, like most of its regulatory brethren, has been slow to bring its substandard dams into compliance with the latest safety guidelines, as ordered by President Jimmy Carter in 1979. Federal dams should be stable enough to withstand the "maximum credible earthquake," usually defined as the quake from a known source like California's San Andreas Fault that could cause the most severe "vibratory ground motion" at a dam site.

Under the guidelines, federal dams should also have enough spillway capacity to discharge the "probable maximum flood." Hydrologists calculate such a flood on the basis of the worst combination of meteorological and hydrological events likely to occur in watershed. In the Rockies, for example, it could be heavy rains mixed with a record snowmelt.

The 'Overtopping' Problem

Several Reclamation Bureau dams, including four on the Salt River and two on the Verde River in Arizona, are vulnerable to "overtopping" by a superflood. The crucial dam is a national historic monument, Theodore Roosevelt Dam. If it were overtopped by the probable maximum flood on the Salt, the top of the dam would crumble, triggering a "domino effect," says the bureau's Mr. Parrett.

The flood would heavily damage two downriver dams, knock out a third and surge on toward Phoenix. "Phoenix gets drowned," Mr. Parrett says. An estimated 250,000 people would be flooded; property damages would hit \$9.5 billion.

The Corps of Engineers has made even less headway than the Reclamation Bureau, largely because of budget ceilings and high-level skepticism at the Pentagon about probable maximum floods. The corps under Mr. Gianelli undertook only two dam modifications between 1981 and 1984. In contrast, the much smaller TVA started five. Mr. Gianelli, now an engineering consultant in California, says that the corps could never explain to his satisfaction how it calculated the probable maximum flood.

Prado Dam, perched in a canyon above suburban Los Angeles, is one project that Mr. Gianelli held up. If the dam failed, the probable maximum flood on the Santa Ana River would inundate 1.3 million residents in Anaheim and other suburbs and cause as much as \$40 billion in damages, mostly in Orange County, according to the corps's risk assessment.

Mr. Gianelli, who served as California's water resources director under Gov. Ronald Reagan, remains unpersuaded. "That dam has been there 50 years," he says. "It has never filled to the point where the spillway is even used. You fix a dam if it's leaking."

Delaying Repairs

In the private sector, meanwhile, dam safety continues to lag. Some farmers scoff at warnings that the dams they built with the Soil Conservation Service's assistance are about to flood out their neighbors. And many corporate dam owners put off costly

repairs.

"It's the last place anybody wants to spend money," says Gerald W. Farquhar, a Washington attorney. "Everybody says it'll be the other fellow's dam that goes."

Among state governments, money for regulating dams remains tight. While California leads the nation with a \$3.8 million budget and a 60-person staff, most states make do with much less—on average, \$265,000 a year. Some states, including Delaware, Alabama and Hawaii, don't yet have a semblance of a dam-safety program.

Pennsylvania, however, has accomplished more than most federal agencies, whittling its backlog of 208 unsafe dams to 72 in five years. More than \$50 million, including low-interest state loans, has gone into dam repairs, usually under consent agreements with the state. The Pennsylvania Gas & Water Co. has agreed to fix 16 water-supply dams, while the Greater Johnstown Water Authority has promised to fix or dismantle the Salt Lick Dam near the site of a famous dam-break nearly a century ago.

"If Salt Lick were to fail," says the state's Mr. Ellam, "it would be as bad as the great Johnstown Flood of 1889, the greatest catastrophe in U.S. history," that swept 2,200 persons to their deaths.

Original sponsor: Sturgulewski

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 183 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL
6 For an Act entitled: "An Act relating to dams and reservoirs; and provid-
7 ing for an effective date."

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

9 * Section 1. AS 11.56.800(a) is amended to read:

10 (a) A person commits the crime of making a false report if the
11 person knowingly

12 (1) gives false information to a peace officer with the
13 intent of implicating another in a crime;

14 (2) makes a false report to a peace officer that a crime
15 has occurred or is about to occur; [OR]

16 (3) makes a false report or gives a false alarm that a fire
17 or other incident dangerous to life or property calling for an emer-
18 gency response has occurred or is about to occur; or

19 (4) makes a false report to the Department of Natural
20 Resources under AS 46.17 concerning the condition of a dam or reser-
21 voir.

22 * Sec. 2. AS 46 is amended by adding a new chapter to read:

23 CHAPTER 17. SUPERVISION OF SAFETY OF DAMS AND RESERVOIRS.

24 Sec. 46.17.010. PURPOSE. It is the purpose of this chapter to
25 provide for the regulation, supervision, and periodic inspection by
26 the department of privately owned and state-owned dams, reservoirs,
27 and appurtenant works in order to ensure that the design, construc-
28 tion, enlargement, alteration, repair, maintenance, operation, and
29 removal of dams and reservoirs is consistent with the protection of

1 life and property.

2 Sec. 46.17.020. ADMINISTRATION AND STAFFING. The department
3 shall supervise the safety of dams and reservoirs. The department
4 shall employ a licensed and qualified engineer, experienced in the
5 design and construction of dams and reservoirs, and other employees
6 necessary for performing the duties under this chapter. Under AS 36.-
7 30 (State Procurement Code), the department may contract with engi-
8 neering consultants to assist in the performance of the department's
9 duties under this chapter.

10 Sec. 46.17.030. REGULATIONS AND ORDERS. The department shall
11 adopt regulations and issue orders necessary to carry out this chap-
12 ter.

13 Sec. 46.17.040. APPROVAL REQUIRED. (a) Except in the perfor-
14 mance of routine maintenance and operations not affecting structural
15 safety, a person may not construct, enlarge, repair, alter, remove,
16 maintain, operate, or abandon a dam or reservoir without the approval
17 of the department.

18 (b) The owner of a dam or reservoir that was constructed before
19 the effective date of this Act shall, under regulations adopted by the
20 department, file an application with the department for the approval
21 of the dam or reservoir.

22 (c) An applicant under this section shall comply with the re-
23 quirements of other applicable statutes.

24 Sec. 46.17.050. INSPECTIONS. At least once every five years the
25 department shall inspect every dam and reservoir that is subject to
26 this chapter. The department may require the owner of a dam or reser-
27 voir to perform the required inspection, according to the department's
28 inspection standards, using a qualified engineer approved by the
29 department. To protect public safety, the department may inspect, or

1 may require the owner to inspect, a dam or reservoir more frequently
2 than every five years. The department may require the owner of the
3 dam or reservoir to pay the cost of an inspection under this section.

4 Sec. 46.17.060. ENTRY UPON PROPERTY. (a) If the department has
5 given two weeks' written notice of intent to inspect a dam or reser-
6 voir and the owner refuses to allow the inspection, the department may
7 seek a search warrant to allow the inspection. If the department has
8 been refused inspection of drawings, operational records, or other
9 information concerning a dam or reservoir, the department may seek an
10 administrative subpoena compelling production of the drawings, opera-
11 tional records, or other information.

12 (b) If the department has reason to believe that a dam or reser-
13 voir may be unsafe or presents an imminent threat to life or property,
14 the department may enter the dam or reservoir premises without notice.

15 Sec. 46.17.070. DETERMINING DANGER. In determining whether a
16 dam or reservoir, or proposed dam or reservoir, constitutes or would
17 constitute a danger to life or property, the department shall consider
18 whether the structural integrity of the dam or reservoir might be
19 endangered by overtopping, seepage, settlement, erosion, cracking,
20 earth movement, earthquakes, or the failure of bulkheads, flashboards,
21 gates, or conduits. The department may consider other relevant con-
22 ditions. If it determines that the dam or reservoir is unsafe, the
23 department shall order the owner to take the action that the depart-
24 ment considers necessary to protect life and property.

25 Sec. 46.17.080. INJUNCTION AND DAMAGES. With the assistance of
26 the attorney general, the department may seek an injunction and dam-
27 ages in the enforcement of this chapter, a department order issued
28 under this chapter, or a regulation adopted under AS 46.17.030.

29 Sec. 46.17.090. JUDICIAL REVIEW. A final action of the

1 department under this chapter is subject to judicial review as pro-
2 vided in the Administrative Procedure Act (AS 44.62).

3 Sec. 46.17.100. OTHER GOVERNMENT AGENCIES. (a) The department
4 may enter into cooperative agreements with municipalities and other
5 state and federal agencies to carry out this chapter.

6 (b) If the action would conflict with the powers and duties
7 vested in the department, a municipality may not

8 (1) regulate, supervise, inspect, or provide for the regu-
9 lation, supervision, or inspection of a dam or reservoir;

10 (2) provide for the construction, maintenance, operation,
11 removal, or abandonment of a dam or reservoir; or

12 (3) limit the size of or the amount of water that may be
13 stored in a dam or reservoir.

14 (c) This chapter does not apply to a federally-owned or operated
15 dam or reservoir or a dam or reservoir regulated by the Federal Energy
16 Regulatory Commission.

17 (d) This chapter does not affect the powers of the Department of
18 Environmental Conservation or the Department of Fish and Game.

19 Sec. 46.17.110. ACTION AGAINST STATE FOR DAMAGES. (a) Except
20 as provided in (b) of this section, a person may not bring an action
21 against the state, the department, or agents or employees of the
22 state, for the recovery of damages caused by the partial or total
23 failure of a dam or reservoir, or by the operation of a dam or reser-
24 voir, or by an act or omission in connection with

25 (1) approval of the construction of a dam or reservoir, or
26 approval of flood-handling plans during or after construction;

27 (2) issuance or enforcement of orders relating to mainte-
28 nance or operation of the dam or reservoir;

29 (3) control or regulation of the dam or reservoir;

1 (4) measures taken to protect against failure of the dam or
2 reservoir during an emergency; or

3 (5) investigations or inspections authorized under this
4 chapter.

5 (b) A person may bring an action against the state for the
6 recovery of damages caused by an action undertaken by a dam owner that
7 was negligently ordered by the state over the owner's objection.

8 Sec. 46.17.120. DUTIES OF OWNER. This chapter does not relieve
9 an owner of a dam or reservoir of the duties or liabilities incident
10 to the ownership or operation of the dam or reservoir.

11 Sec. 46.17.150. PENALTIES. (a) A person is guilty of a class A
12 misdemeanor if the person knowingly

13 (1) violates a provision of this chapter,

14 (2) violates the terms of an approval, order, regulation,
15 or requirement of the department under this chapter; or

16 (3) obstructs, hinders, or prevents the department's agents
17 or employees from performing duties under this chapter.

18 (b) Each day that a violation continues constitutes a separate
19 offense.

20 Sec. 46.17.900. DEFINITIONS. In this chapter, unless the con-
21 text requires otherwise,

22 (1) "alteration" means only an alteration that might di-
23 rectly affect the safety of the dam or reservoir, as determined by the
24 department;

25 (2) "appurtenant works" includes structures including
26 spillways, either in a dam or separate from it; a reservoir and its
27 rim; low level outlet works; and water conduits including tunnels,
28 pipelines, or penstocks, whether running through the dam or through
29 its abutments;

1 (3) "dam" includes an artificial barrier, and its appurte-
2 nant works, which may impound or divert water and which

3 (A) has or will have an impounding capacity at maximum
4 water storage elevation of 50 acre-feet and is at least 10 feet
5 in height measured from the lowest point at either the upstream
6 or downstream toe of the dam to the crest of the dam;

7 (B) is at least 20 feet in height measured from the
8 lowest point at either the upstream or downstream toe of the dam
9 to the crest of the dam; or

10 (C) poses a threat to lives and property as determined
11 by the department after an inspection;

12 (4) "department" means the Department of Natural Resources;

13 (5) "enlargement" means an alteration of an existing dam or
14 reservoir that raises or is capable of raising the water storage
15 elevation, or that increases the quantity of water impounded by the
16 dam or reservoir;

17 (6) "owner" means a person who owns, controls, operates,
18 maintains, manages, or proposes to construct a dam or reservoir, and
19 includes

20 (A) a public utility; and

21 (B) the appointed or authorized agents, employees,
22 lessees, receivers, or trustees of an owner;

23 (7) "person" has the meaning given in AS 01.10.060, and
24 includes the state and political subdivisions of the state, including
25 the Alaska Railroad Corporation and the University of Alaska;

26 (8) "repair" means only a repair that might directly affect
27 the safety of the dam or reservoir, as determined by the department;

28 (9) "reservoir" means a basin, appurtenant to a dam, that
29 is capable of impounding water.

1 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

1 IN THE SENATE

BY STURGULEWSKI

2

SENATE BILL NO. 183

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to dams and reservoirs; and provid-
ing for an effective date."

7

8

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

9

* Section 1. AS 11.56.800(a) is amended to read:

10

(a) A person commits the crime of making a false report if the
person knowingly

11

12

(1) gives false information to a peace officer with the
intent of implicating another in a crime;

13

14

(2) makes a false report to a peace officer that a crime
has occurred or is about to occur; [OR]

15

16

(3) makes a false report or gives a false alarm that a fire
or other incident dangerous to life or property calling for an emer-
gency response has occurred or is about to occur; or

17

18

19

(4) makes a false report to the Department of Natural
Resources under AS 46.17 concerning the condition of a dam or reser-
voir.

20

21

22

* Sec. 2. AS 46 is amended by adding a new chapter to read:

23

CHAPTER 17. SUPERVISION OF SAFETY OF DAMS AND RESERVOIRS.

24

Sec. 46.17.010. PURPOSE. It is the purpose of this chapter to
provide for the regulation, supervision, and periodic inspection by
the department of privately owned and state-owned dams, reservoirs,
and appurtenant works in order to ensure that the design, construc-
tion, enlargement, alteration, repair, maintenance, operation, and
removal of dams and reservoirs is consistent with the protection of

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29

1. life and property.

2 Sec. 46.17.020. ADMINISTRATION AND STAFFING. The department
3 shall supervise the safety of dams and reservoirs. The department
4 shall employ a licensed and qualified engineer, experienced in the
5 design and construction of dams and reservoirs, and other employees
6 necessary for performing the duties under this chapter. Under AS 36.-
7 30 (State Procurement Code), the department may contract with engi-
8 neering consultants to assist in the performance of the department's
9 duties under this chapter.

10 Sec. 46.17.030. REGULATIONS AND ORDERS. The department shall
11 adopt regulations and issue orders necessary to carry out this chap-
12 ter.

13 Sec. 46.17.040. APPROVAL REQUIRED. (a) Except in the perfor-
14 mance of routine maintenance and operations not affecting structural
15 safety, a person may not construct, enlarge, repair, alter, remove,
16 maintain, operate, or abandon a dam or reservoir without the approval
17 of the department.

18 (b) The owner of a dam or reservoir that was constructed before
19 the effective date of this Act shall, under regulations adopted by the
20 department, file an application with the department for the approval
21 of the dam or reservoir.

22 (c) An applicant under this section shall comply with the re-
23 quirements of other applicable statutes.

24 Sec. 46.17.050. INSPECTIONS. At least once every five years the
25 department shall inspect every dam and reservoir that is subject to
26 this chapter. The department may require the owner of a dam or reser-
27 voir to perform the required inspection, according to the department's
28 inspection standards, using a qualified engineer approved by the
29 department. To protect public safety, the department may inspect, or

1 may require the owner to inspect, a dam or reservoir more frequently
2 than every five years. The department may require the owner of the
3 dam or reservoir to pay the cost of an inspection under this section.

4 Sec. 46.17.060. ENTRY UPON PROPERTY. (a) If the department has
5 given two weeks' written notice of intent to inspect a dam or reser-
6 voir and the owner refuses to allow the inspection, the department may
7 seek a search warrant to allow the inspection. If the department has
8 been refused inspection of drawings, operational records, or other
9 information concerning a dam or reservoir, the department may seek an
10 administrative subpoena compelling production of the drawings, opera-
11 tional records, or other information.

12 (b) If the department has reason to believe that a dam or reser-
13 voir may be unsafe or presents an imminent threat to life or property,
14 the department may enter the dam or reservoir premises without notice.

15 Sec. 46.17.070. DETERMINING DANGER. In determining whether a
16 dam or reservoir, or proposed dam or reservoir, constitutes or would
17 constitute a danger to life or property, the department shall consider
18 whether the structural integrity of the dam or reservoir might be
19 endangered by overtopping, seepage, settlement, erosion, cracking,
20 earth movement, earthquakes, or the failure of bulkheads, flashboards,
21 gates, or conduits. The department may consider other relevant con-
22 ditions. If it determines that the dam or reservoir is unsafe, the
23 department shall order the owner to take the action that the depart-
24 ment considers necessary to protect life and property.

25 Sec. 46.17.080. INJUNCTION AND DAMAGES. With the assistance of
26 the attorney general, the department may seek an injunction and dam-
27 ages in the enforcement of this chapter, a department order issued
28 under this chapter, or a regulation adopted under AS 46.17.030.

29 Sec. 46.17.090. JUDICIAL REVIEW. A final action of the

1 department under this chapter is subject to judicial review as pro-
2 vided in the Administrative Procedure Act (AS 44.62).

3 Sec. 46.17.100. OTHER GOVERNMENT AGENCIES. (a) The department
4 may enter into cooperative agreements with municipalities and other
5 state and federal agencies to carry out this chapter.

6 (b) If the action would conflict with the powers and duties
7 vested in the department, a municipality may not

8 (1) regulate, supervise, inspect, or provide for the regu-
9 lation, supervision, or inspection of a dam or reservoir;

10 (2) provide for the construction, maintenance, operation,
11 removal, or abandonment of a dam or reservoir; or

12 (3) limit the size of or the amount of water that may be
13 stored in a dam or reservoir.

14 (c) This chapter does not apply to a federally-owned or operated
15 dam or reservoir.

16 (d) This chapter does not affect the powers of the Department of
17 Environmental Conservation or the Department of Fish and Game.

18 Sec. 46.17.110. ACTION AGAINST STATE FOR DAMAGES. (a) Except
19 as provided in (b) of this section, a person may not bring an action
20 against the state, the department, or agents or employees of the
21 state, for the recovery of damages caused by the partial or total
22 failure of a dam or reservoir, or by the operation of a dam or reser-
23 voir, or by an act or omission in connection with

24 (1) approval of the construction of a dam or reservoir, or
25 approval of flood-handling plans during or after construction;

26 (2) issuance or enforcement of orders relating to mainte-
27 nance or operation of the dam or reservoir;

28 (3) control or regulation of the dam or reservoir;

29 (4) measures taken to protect against failure of the dam or

1 reservoir during an emergency; or

2 (5) investigations or inspections authorized under this
3 chapter.

4 (b) A person may bring an action against the state for the
5 recovery of damages caused by an action undertaken by a dam owner that
6 was negligently ordered by the state over the owner's objection.

7 Sec. 46.17.120. DUTIES OF OWNER. This chapter does not relieve
8 an owner of a dam or reservoir of the duties or liabilities incident
9 to the ownership or operation of the dam or reservoir.

10 Sec. 46.17.150. PENALTIES. (a) A person is guilty of a class A
11 misdemeanor if the person knowingly

12 (1) violates a provision of this chapter,

13 (2) violates the terms of an approval, order, regulation,
14 or requirement of the department under this chapter; or

15 (3) obstructs, hinders, or prevents the department's agents
16 or employees from performing duties under this chapter.

17 (b) Each day that a violation continues constitutes a separate
18 offense.

19 Sec. 46.17.900. DEFINITIONS. In this chapter, unless the con-
20 text requires otherwise,

21 (1) "alteration" means only an alteration that might di-
22 rectly affect the safety of the dam or reservoir, as determined by the
23 department;

24 (2) "appurtenant works" includes structures including
25 spillways, either in a dam or separate from it; a reservoir and its
26 rim; low level outlet works; and water conduits including tunnels,
27 pipelines, or penstocks, whether running through the dam or through
28 its abutments;

29 (3) "dam" includes an artificial barrier, and its

1 appurtenant works, which may impound or divert water and which

2 (A) has or will have an impounding capacity at maximum
3 water storage elevation of 50 acre-feet and is at least 10 feet
4 in height measured from the lowest point at either the upstream
5 or downstream toe of the dam to the crest of the dam;

6 (B) is at least 20 feet in height measured from the
7 lowest point at either the upstream or downstream toe of the dam
8 to the crest of the dam; or

9 (C) poses a threat to lives and property as determined
10 by the department after an inspection;

11 (4) "department" means the Department of Natural Resources;

12 (5) "enlargement" means an alteration of an existing dam or
13 reservoir that raises or is capable of raising the water storage
14 elevation, or that increases the quantity of water impounded by the
15 dam or reservoir;

16 (6) "owner" means a person who owns, controls, operates,
17 maintains, manages, or proposes to construct a dam or reservoir, and
18 includes

19 (A) a public utility; and

20 (B) the appointed or authorized agents, employees,
21 lessees, receivers, or trustees of an owner;

22 (7) "person" has the meaning given in AS 01.10.060, and
23 includes the state and political subdivisions of the state, including
24 the Alaska Railroad Corporation and the University of Alaska;

25 (8) "repair" means only a repair that might directly affect
26 the safety of the dam or reservoir, as determined by the department;

27 (9) "reservoir" means a basin, appurtenant to a dam, that
28 is capable of impounding water.

29 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

SB

1990

SENATE COMMITTEE REPORT

FURTHER:

5/4/87

DATE TURNED INTO OFFICE 5/8/87

Mr. President:

FINANCE Committee considered SB 190

establishing the Point Bridget State Park; efd.

and recommended:

replace with CS FOR _____) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous

zero fiscal impact 25.0

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures: Jim Durca, Phil Del...]

[Handwritten signature: Willie Henley]

[Handwritten signature: Do Pass]
Chairman signature and recommendation

Committee Backup Attached

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: Senate Bill 190
Publish Date: _____

Revision Date: April 14, 1987

Agency Affected: Natural Resources
BRU: Park Management

Title: Pr Bridget State Park

Sponsor: Senator Duncan

Comments: _____

Requestor: Senate C&RA Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		20.0	20.0	20.0	20.0	20.0
TRAVEL						
CONTRACTUAL		1.0	1.0	1.0	1.0	1.0
SUPPLIES		2.0	2.0	2.0	2.0	2.0
EQUIPMENT		2.0	2.0	2.0	2.0	2.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		25.0	25.0	25.0	25.0	25.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		25.0	25.0	25.0	25.0	25.0
FEDERAL FUNDS						
OTHER						
TOTAL		25.0	25.0	25.0	25.0	25.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Neil Johannsen/Linda Kruger
Division: Parks and Outdoor Recreation

Phone: 465-2400
Date: 4/14/87

Approved by Commissioner: Jennie Bostrom
Agency: Natural Resources

Date: 4-15-87

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

RECEIVED

APR 17 1987

LEGISLATIVE FINANCE

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 190

100 - \$20.0 for half-time Park Ranger, Range 14 (Existing position, currently funded for only 5 months per year.)

200 - -0-

300 - \$1.0 Mileage for travel to and from park site.

400 - \$2.0 Supplies for volunteers to develop access trails to park.

500 - \$2.0 Equipment for volunteers to develop access trails to park.

The Park Ranger would supervise the volunteers and assist them in developing access trails to the park. Defined access routes would help to prevent trespass on private property adjacent to the park.

1 IN THE SENATE

BY DUNCAN

2

SENATE BILL NO. 190

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to establishing the Point Bridget
7 State Park; and providing for an effective date."

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

9 * Section 1. AS 41.21 is amended by adding new sections to read:

10 Sec. 41.21.180. PURPOSE OF AS 41.21.180 - 41.21.184. The
11 purpose of AS 41.21.180 - 41.21.184 is to establish, subject to valid
12 existing rights, the state-owned or acquired lands described in
13 AS 41.21.182 as the Point Bridget State Park. The primary purposes of
14 establishing the Point Bridget State Park are to protect the area's
15 recreational and scenic resources and to preserve and enhance the
16 continued use of the area for hunting and fishing and recreational
17 activities.

18 Sec. 41.21.182. POINT BRIDGET STATE PARK ESTABLISHED. The
19 state-owned land and water and the land and water acquired by the
20 state in the future within the following described parcels is estab-
21 lished as the Point Bridget State Park:

22 All state land lying within the following unsurveyed sections:

23 Township 37 South, Range 63 East, Copper River Meridian

24 Section 10: E1/2

25 Section 11

26 Section 12: W1/2

27 Section 13: W1/2 and W1/2E1/2

28 Section 14

29 Section 15: E1/2

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Section 23: N1/2

Sec. 41.21.184. DESIGNATION OF MANAGEMENT RESPONSIBILITY. (a)

The state-owned land and water described in AS 41.21.182 are assigned to the department for control, maintenance, and development consistent with the purposes and provisions of AS 41.21.180 - 41.21.182.

(b) The Department of Fish and Game is responsible for the management of fish and game resources in the Point Bridget State Park, consistent with the sustained-yield principle and the purposes and provisions of this chapter. The Board of Fisheries, the Board of Game, and the commissioner of fish and game are responsible for adopting regulations governing uses of fish and game under AS 16. The fish and game habitat and breeding areas shall be managed to ensure that the fish and game resources of the park continue on a sustained-yield basis.

(c) The department shall consult with the Department of Fish and Game before adoption of regulations governing public use of the Point Bridget State Park.

(d) The Department of Fish and Game shall consult with the department before adoption of regulations governing fish and game management in the Point Bridget State Park.

(e) Regulations under this section shall be adopted under the Administrative Procedure Act (AS 44.62).

* Sec. 2. This Act takes effect July 1, 1987.

SENATE COMMITTEE REPORT

FURTHER: FINANCE

DATE TURNED INTO OFFICE

5/4/87

Mr. President:

RESOURCES

Committee considered SB 190

establishing the Point Bridget State Park; efd

and recommended:

[] replace with CS FOR _____) [] same title
[] or adopt _____ CS FOR _____) [] new title

[] attached amendment(s) and

[x] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [x] adopted fiscal note(s)

[] new [] updated or [x] previous
[] zero [x] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Handwritten signatures under MEMBERS SIGNING DO PASS, including names like 'Ludwig' and 'Hargrave'.

Handwritten signatures and scribbles under OTHER RECOMMENDATIONS.

Handwritten signature of the Chairman and the text 'Do-Pass'.

Chairman signature and recommendation

[] Committee Backup Attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 4/10/87 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

RESOURCES
FINANCE

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)
3/17/87

DATE TURNED INTO OFFICE 5/4/87
4/17/87

Mr. President:

C&RA Committee considered SB 190

establishing the Point Bridget State Park; efd.

and recommended:

replace with CS _____ same title

attached amendment(s) and new title

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s) 2
 zero fiscal impact 1

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Rick Halbo
Mike Snyder

Arthur Frankel Do Pass
Chairman signature and recommendation

Committee Backup Attached