

SCOMM

#46:15

Original sponsor: House Special Committee
on Oil and Gas

1 IN THE HOUSE

BY THE HOUSE SPECIAL
COMMITTEE ON OIL AND GAS

2 CS FOR HOUSE BILL NO. 143 (Oil and Gas)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil and gas activities along
7 highway rights-of-way;" and providing for an effective date."

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

9 * Section 1. AS 19.40.200 is amended to read:

10 Sec. 19.40.200. PROHIBITION ON DISPOSAL OF LAND WITHIN FIVE
11 MILES OF THE HIGHWAY. The state may not dispose of state land under
12 AS 38 which is within five miles of the right-of-way of the highway,
13 except for purposes of reconstruction or maintenance of the highway.
14 This section does not apply to an oil and gas lease under
15 AS 38.05.180, or to a disposal necessary for exploration, development, production, or
16 transportation of oil and gas north of 69 degrees north latitude.

15 * Sec. 2. AS 19.40.210 is amended to read:

16 Sec. 19.40.210. PROHIBITION OF OFF-ROAD VEHICLES. Off-road
17 vehicles are prohibited on land within five miles of the right-of-way
18 of the highway. However, this prohibition does not apply to off-road
19 vehicles necessary for oil and gas exploration conducted under an oil
20 and gas lease issued under AS 38.05.180 or to a person who holds a
21 mining claim in the vicinity of the highway and who must use land
22 within five miles of the right-of-way of the highway to gain access to
23 the [HIS] mining claim.

24 * Sec. 3. This act takes effect immediately in accordance
25 with AS 01.10.070 (c).
26
27
28
29

Alaska State Legislature

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



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

Senate Committee on Resources

MEMORANDUM

January 30, 1985

TO: All Members
Senate Resources Committee

FROM: Senator Arliss Sturgulewski *AS*
Chairman, Senate Resources Committee

RE: Proposed legislation regarding haul road right-of-way

In 1980 the legislature passed AS 19.40.200 and .210. These sections prohibit the disposal of state land within five miles of the Dalton Highway and also prohibit the use of off-road vehicles in this same area.

An oil and gas lease sale is currently scheduled to be announced in March and to take place in May of this year. This sale, number 47, would include area that is within this five mile border of the highway. If the existing statutes are not modified, the lease sale could not proceed.

The Department of Natural Resources, Division of Oil and Gas, has asked the Senate Resources Committee to introduce the attached legislation to remedy this problem. The House Special Committee on Oil and Gas introduced identical legislation yesterday.

A copy of the proposed legislation and a map of the area involved is attached.

Enclosures

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil and gas exploration along
7 highway rights-of-way."

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

9 * Section 1. AS 19.40.200 is amended to read:

10 Sec. 19.40.200. PROHIBITION ON DISPOSAL OF LAND WITHIN FIVE
11 MILES OF THE HIGHWAY. The state may not dispose of state land under
12 AS 38 which is within five miles of the right-of-way of the highway.
13 This section does not apply to an oil and gas lease under
14 AS 38.05.180; other state land disposals necessary for oil and gas
15 exploration, development, production, or transportation; or other
16 state land disposals necessary for highway maintenance and
17 construction.

18 * Sec. 2. AS 19.40.210 is amended to read:

19 Sec. 19.40.210. PROHIBITION OF OFF-ROAD VEHICLES. Off-road
20 vehicles are prohibited on land within five miles of the right-of-way
21 of the highway. However, this prohibition does not apply to off-road
22 vehicles supporting oil and gas exploration, development, production
23 or transportation, or to a person who holds a mining claim in the
24 vicinity of the highway and who must use land within five miles of the
25 right-of-way of the highway to gain access to the [HIS] mining claim.
26
27
28
29

DEPARTMENT OF NATURAL RESOURCES
PROPOSED AMENDMENT TO SECTION 1 OF H. B. 143

Delete Section 1 and insert:

*Section 1. AS 19.40.200 is amended to read:

Section 19.40.200. PROHIBITION ON DISPOSAL WITHIN FIVE MILES OF THE HIGHWAY. The state may not dispose of state land under AS 38 which is within five miles of the right-of-way of the highway. This section does not apply to an oil and gas lease under AS 38.05.180; material sales under AS 38.05.110-.120 necessary for exploration, development, production or transportation of oil and gas or for highway reconstruction and maintenance; oil and gas pipeline rights-of-way under AS 38.35; and leases under AS 38.05.070 necessary for oil field development.

Not used

DEPARTMENT OF NATURAL RESOURCES

ALTERNATE AMENDMENT TO HB 143

1. Delete Section 1 and insert:

*Section 1. AS 19.40.200 is amended to read:

Section 19.40.200. PROHIBITION ON DISPOSAL WITHIN FIVE MILES OF THE HIGHWAY. The state may not dispose of state land under AS 38 which is within five miles of the right-of-way of the highway. This section does not apply to an oil and gas lease under AS 38.05.180; a material sale under AS 38.05.110-.120 necessary for oil and gas development or for reconstruction and maintenance of existing highways; oil and gas pipeline rights-of-way under AS 38.35; and leases under AS 38.05.070 necessary for oil and gas development.

2. Add a new section to read:

*Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

3. Change title to read: "An Act relating to oil and gas activities along highway rights-of-way; and providing for an effective date."



Official Business

Alaska State Legislature

HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

To: Ms. Lynn Barnes,
Division of Legal Services

From: Rep. Mike Davis
Chairman, House Special Committee on Oil and Gas

Date: January 24, 1985

Re: Draft legislation

Attached are amendments to AS 19.40.200-.210. Please draft a final bill for me as soon as possible that incorporates both of these amendments. This is to be a House bill, introduced by the House Special Committee on Oil and Gas.

DISCUSSION DRAFT
1/21/85

Proposed clarification amendments to AS 19.40.200-.210

Dalton Highway

Sec. 19.40.200. Prohibition on disposal of land within five miles of the highway. The state may not dispose of state land under AS 38 which is within five miles of the right-of-way of the highway. However, this prohibition does not apply to oil and gas leases under AS 38.05.180; to other disposals necessary for oil and gas exploration, development, production or transportation; or to disposals for highway maintenance and construction purposes.

Sec. 19.40.210. Prohibition of off-road vehicles. Off-road vehicles are prohibited on land within five miles of the right-of-way of the highway. However, this prohibition does not apply to off-road vehicles supporting oil and gas exploration, development, production, or transportation, or to a person who holds a mining claim in the vicinity of the highway and who must use land within five miles of the right-of-way of the highway to gain access to his mining claim.

1/21-cor
butts3

IN THE HOUSE

BY THE HOUSE SPECIAL
COMMITTEE ON OIL AND GAS

CS FOR HOUSE BILL NO. 143 (Oil and Gas)
IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to ^{oil and gas activities along} ~~land use and disposal~~ ^{rights} ~~near~~ a highway ~~right~~-of-way; and providing for an effective date."

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

* Section 1. AS 19.40.200 is amended by adding a new subsection to read:

(b) The prohibition on disposal of state land under (a) of this section does not apply to a disposal necessary for

- (1) an oil and gas lease under AS 38.05.180;
- (2) exploration, development, production, or transportation of oil and gas north of 68 degrees north latitude; or
- (3) reconstruction or maintenance of the highway.

* Sec. 2. AS 19.40.210 is amended to read:

Sec. 19.40.210. PROHIBITION OF OFF-ROAD VEHICLES. Off-road vehicles are prohibited on land within five miles of the right-of-way of the highway. However, this prohibition does not apply to off-road vehicles necessary for oil and gas exploration conducted under an oil and gas lease issued under AS 38.05.180 or to a person who holds a mining claim in the vicinity of the highway and who must use land within five miles of the right-of-way of the highway to gain access to the [HIS] mining claim.

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

Introduced: 1/31/85
Referred: Resources and
Transportation

unanimous do-pass
retro to 10/5/80

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

SENATE BILL NO. 115

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to oil and gas exploration along

7

highway rights-of-way; and providing for an
effective date."

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

9

* Section 1. AS 19.40.200 is amended to read:

10

Sec. 19.40.200. PROHIBITION ON DISPOSAL OF LAND WITHIN FIVE

11

MILES OF THE HIGHWAY. The state may not dispose of state land under

12

AS 38 which is within five miles of the right-of-way of the highway.

13

This section does not apply to an oil and gas lease under

14

AS 38.05.180; ~~other state land disposals necessary for oil and gas~~

15

~~exploration, development, production, or transportation of oil and gas~~

16

~~or other state land disposals necessary for highway maintenance and~~

17

reconstruction and maintenance of the highway.

18

* Sec. 2. AS 19.40.210 is amended to read:

19

Sec. 19.40.210. PROHIBITION OF OFF-ROAD VEHICLES. Off-road

20

vehicles are prohibited on land within five miles of the right-of-way

21

of the highway. However, this prohibition does not apply to off-road

22

vehicles supporting oil and gas exploration, development, production

23

or transportation, or to a person who holds a mining claim in the

24

vicinity of the highway and who must use land within five miles of the

25

right-of-way of the highway to gain access to the [HIS] mining claim.

Sec. 3. This Act takes effect immediately in
accordance with AS 01.10.070(c).

[At the end of Sec. 1]:

Prior to selling materials under this section to a private entity or to a state agency for disposal to a private entity, the state shall consider reasonably available private sources of materials in the area.

DEPARTMENT OF NATURAL RESOURCES

PROPOSED AMENDMENT TO HB 143

1. Delete Section 1 and insert: *except for purposes of reconstruction or maintenance of the highway*

*Section 1. AS 19.40.200 is amended to read:

Section 19.40.200. PROHIBITION ON DISPOSAL WITHIN FIVE MILES OF THE HIGHWAY. The state may not dispose of state land under AS 38 which is within five miles of the right-of-way of the highway. This section does not apply to an oil and gas lease under AS 38.05.180, or to a disposal necessary for exploration, development, production, or transportation of oil and gas ~~or for reconstruction and maintenance of existing highways~~; *north of 68° North latitude.*

2. Add a new section to read:

*Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070 (c).

3. Change title to read: "An Act relating to oil and gas activities along highway rights-of-way; and providing for an effective date."

Moen
2/8/85

Original sponsor: Resources Committee

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 115 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to land use and disposal near a
7 highway right-of-way; and providing for an effective
8 date."

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

10 * Section 1. AS 19.40.200 is amended by adding new subsections to read:

11 (b) The prohibition on disposal of state land under (a) of this
12 section does not apply to a

13 (1) disposal necessary for an oil and gas lease under
14 AS 38.05.180;

15 (2) a state lease or materials sale necessary for explora-
16 tion, development, production, or transportation of oil and gas or
17 reconstruction or maintenance of the highway.

18 (c) Before the sale of materials under (b)(2) of this section to
19 a private entity or person or to a state agency the state shall give
20 due consideration to the availability of materials from private
21 sources in the area where the materials are needed.

22 * Sec. 2. AS 19.40.210 is amended to read:

23 Sec. 19.40.210. PROHIBITION OF OFF-ROAD VEHICLES. Off-road
24 vehicles are prohibited on land within five miles of the right-of-way
25 of the highway. However, this prohibition does not apply to off-road
26 vehicles necessary for oil and gas exploration, development, produc-
27 tion, or transportation [REDACTED]

28 [REDACTED] or to a person who holds a mining claim in the vicinity of the
29 highway and who must use land within five miles of the right-of-way of

1 the highway to gain access to the [HIS] mining claim.

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

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-485-2400

January 31, 1985

The Honorable Mike Davis, Chairman
House Special Committee on Oil and Gas
Pouch V
Juneau, AK 99811

Dear Representative Davis:

The Department of Natural Resources is requesting amendment of AS 19.40.200 and AS 19.40.210 to allow oil and gas exploration and development within five miles of the right-of-way of the Dalton Highway (North Slope Haul Road).

The statute presently prohibits the disposal of state land under AS 38 and use of off-road vehicles within five miles of the highway. "State land" under AS 38 includes oil and gas leases for exploration and production rights.

Although the department does not believe it was the intent of the 1980 Legislature to prohibit oil and gas activities along the highway, the statute as presently written may be interpreted to have that effect. Oil and Gas Lease Sale 47 (Kuparuk Uplands) is tentatively scheduled for May 21, 1985 and contains approximately 611,840 acres. Of that total, some 230,000 acres (52 of the 113 tracts) are within the five-mile corridor and will have to be deleted from the sale without clarification of the statutes cited above. Final notice of Sale 47 is scheduled to be given March 22, 1985.

I appreciate the willingness of your Committee to introduce HB 143, which would rectify the apparent oversight. Thank you in advance for your consideration and timely action on the bills.

Sincerely,



Esther C. Wunnicke
Commissioner

**STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 143
 Title: Exploration and Development
in Highway Rights-of-Way
 Sponsor: _____
 Requestor: Rep. Davis
 Date of Request: 1/31/85

FISCAL DETAIL

Agency Affected: Natural Resources
 Program Category Affected: NRMEC
 BRU, Program or Subprogram(s) Affected:
Minerals and Energy Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

No fiscal impact.

Prepared By: Ned Farquhar
 Division: Commissioner's Office

Phone: 465-2400
 Date: January 31, 1985

Approved by Commissioner: Wm D. Amundson
 Agency: Natural Resources

Date: January 31, 1985

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 115
 Title: Exploration and Development
in Highway Rights-of-Way
 Sponsor: _____
 Requestor: Sen. Sturgulewski
 Date of Request: 1/31/85

FISCAL DETAIL

Agency Affected: Natural Resources
 Program Category Affected: NRMEC
 ERU, Program or Subprogram(s) Affected: Minerals and Energy Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

No fiscal impact.

Prepared By: Ned Farquhar
 Division: Commissioner's Office

Phone: 465-2400
 Date: January 31, 1985

Approved by Commissioner: Wm D. Smyly
 Agency: Natural Resources

Date: January 31, 1985

Distribution (by Agency preparing fiscal note):

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

7/1/84

Moen
2/7/85

Original sponsor: Resources Committee

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 115 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to land use and disposal near a
7 highway right-of-way; and providing for an effective
8 date."

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

10 * Section 1. AS 19.40.200 is amended by adding new subsections to read:

11 (b) The prohibition on disposal of state land under (a) of this
12 section does not apply to a

13 (1) disposal necessary for an oil and gas lease under
14 AS 38.05.180;

15 (2) a state lease or materials sale necessary for explora-
16 tion, development, production, or transportation of oil and gas or
17 reconstruction or maintenance of the highway.

18 (c) Before the sale of materials under (b)(2) of this section to
19 a private entity or person or to a state agency the state shall give
20 due consideration to the availability of materials from private
21 sources in the area where the materials are needed.

22 * Sec. 2. AS 19.40.210 is amended to read:

23 Sec. 19.40.210. PROHIBITION OF OFF-ROAD VEHICLES. Off-road
24 vehicles are prohibited on land within five miles of the right-of-way
25 of the highway. However, this prohibition does not apply to off-road
26 vehicles necessary for oil and gas exploration [REDACTED]

27 [REDACTED] or to a person who holds a
28 mining claim in the vicinity of the highway and who must use land
29 within five miles of the right-of-way of the highway to gain access to

1 the [HIS] mining claim.

2 ~~Sec. 3~~ This Act is retroactive to October 5, 1980.
3 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
4 10.070(c).
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Original sponsor: House Special Committee on Oil and Gas

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 143 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil and gas activities along a
7 highway right-of-way; and providing for an effective
8 date."

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

10 * Section 1. AS 19.40.200 is amended by adding new subsections to read:

11 (b) The prohibition on disposal of state land under (a) of this
12 section does not apply to a

13 (1) disposal necessary for an oil and gas lease under
14 AS 38.05.180;

15 (2) a state lease or materials sale necessary for explora-
16 tion, development, production, or transportation of oil and gas or
17 reconstruction or maintenance of the highway.

18 (c) Before the sale of materials under (b)(2) of this section to
19 a private entity or person or to a state agency the state shall give
20 due consideration to the availability of materials from private
21 sources in the area where the materials are needed.

22 * Sec. 2. AS 19.40.210 is amended to read:

23 Sec. 19.40.210. PROHIBITION OF OFF-ROAD VEHICLES. Off-road
24 vehicles are prohibited on land within five miles of the right-of-way
25 of the highway. However, this prohibition does not apply to off-road
26 vehicles necessary for oil and gas exploration, development, produc-
27 tion, or transportation or to a person who holds a mining claim in the
28 vicinity of the highway and who must use land within five miles of the
29 right-of-way of the highway to gain access to the [HIS] mining claim.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

* Sec. 3. This Act is retroactive to October 5, 1980.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-
10.070(c).

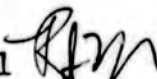
STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 11, 1985

SUBJECT: CS for House Bill 134 (oil & gas)
TO: House Special Committee on Oil and Gas
FROM: Randall J. Moen 
Legislative Counsel

Upon further review of CS for HB 143 it is my opinion the title, "An Act relating to oil and gas activities along a right-of-way; . . ." may not adequately describe the content of the bill. My reason is that Section 1. (b) (3) allows for disposal of state land along the James Dalton highway for purposes other than oil and gas activities, (i.e.) reconstruction or maintenance of the highway.

RJM:ojb
J11/076

Proposed amendment to CSSB 115/CSHB143

Section 1.

(b)(2) a state lease or materials sale necessary for exploration, development, or production of oil and gas or reconstruction or maintenance of the highway.

(b)(3) a state lease for transportation of oil and gas within one-quarter mile of the highway centerline under AS 38.35.

Sec. 19.40.100. Use of the highway by industrial or commercial traffic. (a) The department shall maintain the highway and keep it open to industrial or commercial traffic throughout the year.

(b) "Industrial or commercial travel" means

(1) travel necessary and related to resource exploration and development or to support of those activities, if the individual engaged in those activities has all necessary permits; or

(2) travel necessary and related to access by local residents to their property; or

(3) motor carriers engaged in commerce which are common carriers or contract carriers regulated by the Alaska Transportation Commission under AS 42.10. (§ 3 ch 177 SLA 1980)

Sec. 19.40.110. Public use of a portion of the highway. The department shall maintain the section of the highway between the Yukon River and Dietrich Camp and shall keep that section of the highway open to use by the public between June 1 and September 1 each year. (§ 4 ch 177 SLA 1980; AS 19.40.120)

Revisor's notes. — This section was renumbered by the revisor of statutes pursuant to AS 01.05.031.

Sec. 19.40.120. Closure of the highway to traffic. The provisions of AS 19.10.100 apply to the closure of the highway by the department. (§ 3 ch 177, SLA 1980; AS 19.40.110)

Revisor's notes. — This section was renumbered by the revisor of statutes pursuant to AS 01.05.031.

Sec. 19.40.200. Prohibition on disposal of land within five miles of the highway. The state may not dispose of state land under AS 38 which is within five miles of the right-of-way of the highway. (§ 5 ch 177 SLA 1980)

Legislative history reports. — For 1781. For attorney general's opinion advising the governor that the house and senate did not pass the same bill, see Op. Atty. Gen. July 1, 1980.

Sec. 19.40.210. Prohibition of off-road vehicles. Off-road vehicles are prohibited on land within five miles of the right-of-way of the highway. However, this prohibition does not apply to a person who holds a mining claim in the vicinity of the highway and who must use land within five miles of the right-of-way of the highway to gain access to his mining claim. (§ 5 ch 177 SLA 1980; AS 19.40.200(b))

Revisor's notes. — This section was renumbered by the revisor of statutes pursuant to AS 01.05.031.

Cl

Section
01. Definitions
02. Penalties
15. Highway co

Sec. 19.45

(1) "comm public facilit

(2) "constr reconstructio

(3) "contro for through t

abutting land a controlled r

(4) "cost of incurred by th

removal of a fi and above the

relocated and subtracted fro

facility;

(5) "departr lic Facilities;

(6) "excess l required for a

so acquired is l to its owner, or

or other dama

(7) "federal-tem" include a

provided in th amending or s

(8) "highway secondary syst.

structure and right-of-way th

operated solely and any such r

(9) "mainten. roadside struct

condition as cor ation of highwa

highways;

(10) "municip vision which ha

BACKGROUND ON SB 115
DEPARTMENT OF NATURAL RESOURCES
February 8, 1985
Senate Resources Committee

DISPOSALS UNDER AS 38 NECESSARY FOR OIL AND GAS DEVELOPMENT:

- Oil and gas leases under AS 38.05.180 convey exploratory drilling rights and production rights for any oil and gas discovered.
- Material (sand and gravel) sales are made to private entities under AS 38.05.110-120 for roads, drill pads, offshore artificial drilling islands, causeways, and other facilities. "Sales" are also made to the Department of Transportation and Public Facilities for highway reconstruction and maintenance under AS 38.05.810 (public and charitable use).
- Oil and gas pipeline right-of-way leases under AS 38.35 are the required authorization to construct an oil or gas pipeline on or across state land.
- Leases under AS 38.05.070 are held by private service companies and contractors in the Prudhoe Bay Industrial Tract Subdivision. These companies and contractors sell, rent, and repair equipment and provide services to oil and gas lessees. Alyeska Pipeline Service Co. also holds leases (for example, construction camp site).

ACTIVITIES IMMEDIATELY AFFECTED BY THE PROPOSED LEGISLATION

- Oil and Gas Lease Sale 47 (Kuparuk Uplands) is tentatively scheduled for May 21, 1985, and contains approximately 611,840 acres. Of that total, about 230,000 acres (52 of the 113 tracts) are within five miles of the highway and would have to be deleted from the sale without the proposed clarification of existing statute. Final notice of Sale 47 is scheduled to be given March 22, 1985.
- Seismic exploration using off-road vehicles is currently prohibited within the 10-mile corridor.
- Several existing material sales to the Department of Transportation and Public Facilities, and current pending applications for continued materials requirements of Alyeska will be in jeopardy.

BILL SHEFFIELD, GOVERNOR

REPLY TO:

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

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

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

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 12, 1985

The Honorable Arliss Sturgulewski, Chairman
Senate Resources Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: CSSB 115 (Res)

Dear Senator Sturgulewski:

Kay Brown, director of the division of oil and gas, has asked us to respond to your inquiry whether there would be any negative legal implications from the retroactive application of the proposed amendments to AS 19.40.200 - 19.40.210 contained in the referenced bill. 1/ We believe that there would not.

Although retrospective laws are generally not favored, curative legislation is encouraged. Here, the legislation is in part being proposed to validate certain existing AS 38.05 disposals and off-road vehicle activities which might otherwise be void for failure to conform with the existing proscriptions of

1/ You will recall that the inquiry was made at your meeting of February 8, at which time Ms. Brown proposed that the provisions of CSSB 115 (Res) be made retroactive. We had earlier advised Ms. Brown that any question regarding the validity of existing uses of state land along the Dalton Highway could be resolved in the context of an attorney general's opinion. However, on February 4, it was brought to our attention that at least one existing oil and gas lease would be void unless made valid by retroactive application of the proposed amendments contained in the bill.

AS 19.40.200 - 19.40.210. These disposals and activities were authorized by state officials under the mistaken belief that the provisions of AS 19.40.200 - 19.40.210 were limited in scope to certain circumstances of primary concern to the legislature when the original Act was passed, namely, the prohibition of cabin site and other land surface disposals under AS 38.05 and of hunting with ORVs along the Haul Road corridor. The plain language of the statute, however, exceeds this narrow application, even though a broad interpretation reportedly was not the legislature's original intent.

Nevertheless, even curative legislation must comply with certain legal requirements. Among these is the requirement of AS 01.10.090 for an express statement of retroactivity. The legislative drafting manual suggests that language providing for retroactive application of a bill be set out in a separate section immediately preceding the effective date section, and that the retroactive section and the sections of the bill that are to be retroactive have immediate effective dates. Thus, CSSB 115 (Res) should contain an additional section to read:

* Sec. 3. Sections 1 - 2 of this Act are retroactive to October 5, 1980. 2/

From a constitutional standpoint, a curative Act may not impair the obligation of contracts, take property without due process of law, or interfere with purely judicial matters. We are not aware of any potential problems arising in these three areas of concern if the presently proposed amendments to AS 19.40.200 - 19.40.210 are made retroactive to the effective date of the original Act. To the contrary, retroactive application will avoid the possibility of finding invalid existing uses of state land previously authorized by state officials.

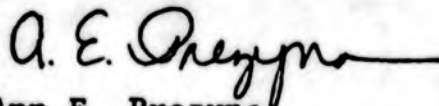
In sum, we are of the opinion that CSSB 115 (Res), which grants new rights rather than takes away existing rights,

2/ The present Section 3, providing for an immediate effective date, would be renumbered Section 4.

will present no negative legal implications if its provisions are applied retroactively. To the contrary, because of the uncertain validity of some existing uses of state land, we strongly encourage inclusion in the bill of a retrospective clause such as the one we have suggested.

Very truly yours,

NORMAN GORSUCH
ATTORNEY GENERAL



By: Ann E. Prezyna
Assistant Attorney General

AEP/ma

cc: Kay Brown, Director
Division of Oil and Gas
Department of Natural Resources

Arthur H. Peterson
Assistant Attorney General
Department of Law - Juneau



**STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS**

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER CSHB 143	SPONSOR House Special Committee on Oil and Gas
DEPARTMENT POSITION Neutral			
PREPARED BY Region III	DATE 2/26/85	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 3-21-85

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL North Slope Borough Arctic Slope Regional Corp.
ORGANIZATIONAL SUPPORT FOR BILL Alaska Oil and Gas Association	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
AS 19.40.200 and .210 currently prohibits the disposal of state land and the use of off-road vehicles within a five mile corridor on both sides of the Dalton Highway right-of-way. This bill would amend AS 91.40.200 and .210 to permit disposals or use of off-road vehicles for oil and gas exploration, development, production, or transportation or the reconstruction or maintenance of the highway.

ANALYSIS OF BILL/PROGRAM EFFECTS
Adds a new subsection AS 19.40.200(b) exempting AS 38.05.180 oil and gas leases and other leases or material sales necessary for oil and gas exploration, development, production or transportation north of 68 degrees north latitude or reconstruction or maintenance of the highway. Amends AS 19.40.210 to exempt off-road vehicles necessary for oil and gas exploration conducted under an AS 38.05.180 oil and gas lease.

No program effects are anticipated; will not adversely affect AS 16.05.789 nor any other ADF&G programs currently mandated by law.

AMENDMENTS PROPOSED

None.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

J

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES



ESTHER C. WUNNICKE, COMMISSIONER
POUCH M
JUNEAU, AK 99811
(907) 465-2400

PUBLIC AFFAIRS OFFICE
555 CORDOVA ST. POUCH 7-005
ANCHORAGE, AK 99510
(907) 276-2553

MEDIA RELEASE

DIVISION OF:	Oil and Gas	CONTACT:	Lella Wise
RELEASE DATE:	March 26, 1985	PHONE:	265-4300
SUBJECT:	Delay of Oil & Gas Lease Sale 47	DNR NEWSLINE:	265-4129

The Department of Natural Resources, Division of Oil and Gas, announced today that Oil and Gas Lease Sale 47 (Kuparuk Uplands) will be delayed from May 1985 until September 1985 and held in conjunction with Sale 45A (North Slope). The delay results from a state statutory conflict which would have reduced the acreage available for leasing in Sale 47, and could have adversely affected the value of the remaining sale acreage by hindering access.

The Dalton Highway crosses the Sale 47 area and approximately one-half of the Sale 47 tracts lie within or partially within a five mile corridor on either side of the highway right-of-way. Alaska Statutes preclude oil and gas leasing within the corridor, as well as use of off-road vehicles.

-MORE-

Sale 47 acreage lies on the North Slope, from the Kuparuk River in the west to the Sagavanirktok River in the east; sale acreage is situated southeast of the Kuparuk River oil field and south of the Prudhoe Bay oil field. Originally scheduled for May 1985 and now scheduled for September 1985, Sale 47 will offer approximately 611,840 acres in 113 tracts, assuming the legislature acts on the proposed changes before adjourning.

For further information about Sale 47 or other proposed oil and gas lease sales, contact the Division of Oil and Gas, Department of Natural Resources, at 555 Cordova, Pouch 7-034, Anchorage, Alaska 99510 or call Ron Beran at 265-4276.

Preliminary

The Department of Natural Resources is requesting amendment of AS 19.40.200 and AS 19.40.210 to allow oil and gas exploration and development within five miles of the right-of-way of the Dalton Highway (North Slope Haul Road).

The statute presently prohibits the disposal of state land under AS 38 and use of off-road vehicles within five miles of the highway. "State land" includes resources owned by the state, including oil and gas.

Although the department does not believe it was the intent of the 1980 legislature to prohibit oil and gas activities along the highway, the statute as presently written may be interpreted to have that effect. Oil and Gas Lease Sale 47 (Kuparuk Uplands) is tentatively scheduled for May 21, 1985 and contains approximately 611,840 acres. Of that total, some 230,000 acres (52 of the 113 tracts) are within the five-mile corridor and will have to be deleted from the sale without clarification of the statutes cited above. Final notice of Sale 47 is scheduled to be given March 22, 1985.

Offered: 2/11/85
Referred: Transportation

Original sponsor: Resources Committee

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 115 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to land use and disposal near a
7 highway right-of-way; and providing for an effective
8 date."

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

10 * Section 1. AS 19.40.200 is amended by adding new subsections to read:

11 (b) The prohibition on disposal of state land under (a) of this
12 section does not apply to a

13 (1) disposal necessary for an oil and gas lease under
14 AS 38.05.180;

15 (2) a state lease or materials sale necessary for explora-
16 tion, development, production, or transportation of oil and gas or
17 reconstruction or maintenance of the highway.

18 (c) Before the sale of materials under (b)(2) of this section to
19 a private entity or person or to a state agency the state shall give
20 due consideration to the availability of materials from private
21 sources in the area where the materials are needed.

22 * Sec. 2. AS 19.40.210 is amended to read:

23 Sec. 19.40.210. PROHIBITION OF OFF-ROAD VEHICLES. Off-road
24 vehicles are prohibited on land within five miles of the right-of-way
25 of the highway. However, this prohibition does not apply to off-road
26 vehicles necessary for oil and gas exploration, development, produc-
27 tion, or transportation or to a person who holds a mining claim in the
28 vicinity of the highway and who must use land within five miles of the
29 right-of-way of the highway to gain access to the [HIS] mining claim.

1 * Sec. 3. This Act is retroactive to October 5, 1980.

2 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-

3 10.070(c).

STATE OF ALASKA



POUCH V
JUNEAU, ALASKA 99811
(907) 485-4941

HOUSE SPECIAL COMMITTEE ON OIL AND GAS

CSSB 115/CSHB 143

Sectional Analysis

CSSB 115 and CSHB 143 are identical bills, except for differences in their titles. Although the intent of both bills is exclusively to allow oil and gas activities to take place within the Dalton Highway right-of-way, the title of CSHB 143 is more specific to this purpose.

The Dalton Highway was constructed for the purpose of oil and gas exploration, development, and transportation, and it is the feeling of this committee that prohibitions within the highway corridor were never intended to apply to these activities. Passage of these bills would allow for the sale of oil and gas leases within the Dalton Highway right-of-way, as well as allowing for related oil and gas activities and the associated use of off-road vehicles. Timely passage of this legislation would also allow the Department of Natural Resources' May 1985 Kuparuk Uplands Sale #47 to take place on schedule.

Section 1.

(b)(1) This subsection addresses AS 38.05.180, which specifically applies to land disposals related to oil and gas leases. Disposals other than those related to oil and gas leasing cannot take place under this section.

(b)(2) This subsection refers to all other leases and materials sales necessary for oil and gas activities. These disposals include oil and gas pipeline right-of-way leases (AS 38.35) and materials sales (AS 38.05.110-120 and .810). Materials sales refer specifically to the sale of sand and gravel.

(c) Due consideration shall be given by the state to purchasing sand and gravel needed for reconstruction or maintenance of the highway from private sources in the area. This subsection is not intended to imply that preference should be given to purchasing materials from these sources, but only that due consideration be given to them.

Section 2.

This section allows off-road vehicles to be used within the Dalton Highway right-of-way when necessary for oil and gas activities. No changes are made to the existing exemption which allows miners to use off-road vehicles within the right-of-way to reach their claims.

Section 3.

This act is retroactive to October 5, 1980; the date at which this statute was first enacted. The reason for the retroactive date is that several leases and material sales have taken place within the right-of-way since 1980.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

January 31, 1985

The Honorable Mike Davis, Chairman
House Special Committee on Oil and Gas
Pouch V
Juneau, AK 99811

Dear Representative Davis:

The Department of Natural Resources is requesting amendment of AS 19.40.200 and AS 19.40.210 to allow oil and gas exploration and development within five miles of the right-of-way of the Dalton Highway (North Slope Haul Road).

The statute presently prohibits the disposal of state land under AS 38 and use of off-road vehicles within five miles of the highway. "State land" under AS 38 includes oil and gas leases for exploration and production rights.

Although the department does not believe it was the intent of the 1980 Legislature to prohibit oil and gas activities along the highway, the statute as presently written may be interpreted to have that effect. Oil and Gas Lease Sale 47 (Kuparuk Uplands) is tentatively scheduled for May 21, 1985 and contains approximately 611,840 acres. Of that total, some 230,000 acres (52 of the 113 tracts) are within the five-mile corridor and will have to be deleted from the sale without clarification of the statutes cited above. Final notice of Sale 47 is scheduled to be given March 22, 1985.

I appreciate the willingness of your Committee to introduce HB 143, which would rectify the apparent oversight. Thank you in advance for your consideration and timely action on the bills.

Sincerely,



Esther C. Wunnicke
Commissioner

**STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 143
 Title: Exploration and Development
 in Highway Rights-of-Way
 Sponsor: _____
 Requestor: Rep. Davis
 Date of Request: 1/31/85

FISCAL DETAIL

Agency Affected: Natural Resources
 Program Category Affected: NRMEC
 BRU, Program or Subprogram(s) Affected:
Minerals and Energy Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

No fiscal impact.

Prepared By: Ned Farquhar Phone: 465-2400
 Division: Commissioner's Office Date: January 31, 1985
 Approved by Commissioner: Wm D. Amundson Date: January 31, 1985
 Agency: Natural Resources

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 115
 Title: Exploration and Development
in Highway Rights-of-Way
 Sponsor: _____
 Requestor: Sen. Sturgulewski
 Date of Request: 1/31/85

FISCAL DETAIL

Agency Affected: Natural Resources
 Program Category Affected: NRMEC
 BRU, Program or Subprogram(s) Affected:
Minerals and Energy Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

No fiscal impact.

Prepared By: Ned Farquhar
 Division: Commissioner's Office

Phone: 465-2400
 Date: January 31, 1985

Approved by Commissioner: Wm D Amodeo
 Agency: Natural Resources

Date: January 31, 1985

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84