

293

HRES.

HB 410

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HB

567

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M — JUNEAU 99801

April 25, 1975

Honorable Nels Anderson, Jr.
Chairman, House Resources Committee
Alaska State Legislature
Juneau, Alaska 99801

Dear Senator Anderson:

Subject: HB 410 Amending AS 38.06.070(b)

You have requested information on the effect of HB 410 on future actions of the Alaska Royalty Oil and Gas Development Advisory Board relative to various possibilities of gaining revenue to offset the budget deficit.

Under the existing law, the Board has some latitude in exploring possible financial options to ascertain which proposals would be in the best interests of the State. As you know, AS 38.06.055 provides that actions of the Board require approval of the legislature by a concurrent resolution. This section ensures that Board decisions will reflect the desire of the legislature and should supply sufficient legislative control without additional legislation such as HB 410.

The requirement of refining or processing royalty oil or gas in the State as a condition of sale would eliminate many if not all the prospective bidders on options for future gas sales. Those that remain would have a negotiation advantage. At this time, no one knows which gas pipeline route will prevail. Under present law, a prospective bidder would be bidding on a specific volume or a specific percentage of the State's royalty gas relying on one route or the other supplying the transport to his market. The processing requirement would be economically impossible for the bidder to fulfill in the event that Arctic Gas Pipeline's route prevails thereby eliminating the majority of potential bidders.

Dry gas from the dry gas fields in Alaska does not require processing as it is ready for sale and use when it leaves the lease. If the term "processing of gas" means manufacture of petrochemicals, this would not be practical or economical in all cases.

Casinghead gas must be stripped of its liquid components before it is capable of being transported over long distances to prevent

April 25, 1975

the liquids from dropping out in the pipelines. Would this liquid extraction process satisfy the term "processing" or would further processing be required?

About four years ago, the Tyonek Indians lost their gas source for generating electricity for the Tyonek village. Unfortunately, there was no gas available close enough to be economical, and they had to convert to diesel fuel. If under similar circumstances in the future there should be some royalty gas available and the proposed legislation is in effect, they would have to agree to process it before we could sell it to them.

At this time, the only advance gas payments of any magnitude (at least 50 to 100 million dollars) that can be made are through interstate sales which probably would not require processing. A processing requirement as proposed would diminish the value of the gas.

The requirement to refine royalty oil will severely limit the number of competitive bidders which would serve to defeat the purpose of competitive bidding and may not result in highest values being realized. The bill could result in "distress oil sales" by requiring refining in state when the closest refinery may be hundreds of miles away or when the volume of royalty oil is small.

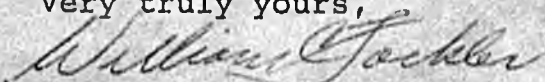
For example, if the present or proposed future refineries are running at capacity, they would be unable to accommodate an additional amount from a new discovery. The additional amount might well be too small to justify another refinery or the field location may not be a satisfactory refinery site. Would the State then be required to build and operate a money-losing refinery to satisfy the terms of the proposed legislation?

Refineries are designed to handle specific crude oils. A new discovery may produce oil which no Alaskan refinery could refine, such as a high sulfur crude. In that event, the State could not sell the royalty oil unless someone was willing to construct a refinery to handle that type of crude. Unless the amount of this royalty oil could economically justify construction of such a refinery, the State would be prevented from selling the oil.

Due to the magnitude of Prudhoe Bay oil and gas volumes, inclusion of a mandatory "refining or processing" requirement may cost the State many tens or hundreds of millions of dollars. There would be no way of knowing what the magnitude of these differences would be unless the Board has the authority to evaluate all possibilities and then present those that are most beneficial to the State.

A fiscal note requested by your Committee is enclosed.

Very truly yours,



William C. Fackler
Deputy Commissioner

Enclosure

OIL REFINERY	PETROCHEMICAL FEEDSTOCK REFINERY	CRUDE OIL PURCHASE	PETROCHEMICAL FEEDSTOCK FROM GAS LIQUIDS	REFINERY PRODUCTS PURCHASE
Tesoro	Koch	Cities Service	Dow	Research Fuels Incorporated (Cahoon)
Koch	Ashland	Dow		
Ashland	Dow	Coastal States		
Dow	Coastal States	Phillips		
Coastal States	Tesoro (possibly)			
McMillan (?)				
Energy Company of Alaska (20,000-30,000 BOD)				

4/23/75

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4/23/75

The Legislature of the State of Alaska
FISCAL NOTE

First Session - Ninth Legislature

I. REQUEST

Bill No. House Bill 410 by Swanson
 Title: Sale of Oil and Gas Obtained by State as Royalty
 Requested by: House Resources Committee - Date: April 24, 1975
 Return Date Requested: April 25, 1975
 Agency: Department of Natural Resources Program: Royalty Advisory Board

II. FISCAL DETAIL

Budget Request Unit(s) Affected: Alaska Royalty Oil & Gas Development
 A. EXPENDITURES: (Thousands of dollars) Advisory Board

OBJECT	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
100 PERSONAL SERVICES	0	59.0	62.0	78.0	69.0	73.0
200 TRAVEL	0	4.0	4.0	5.0	5.0	5.0
300 CONTRACTUAL	0	20.0	21.0	22.0	23.0	24.0
400 COMMODITIES	0	1.0	1.0	1.0	1.0	1.0
500 EQUIPMENT	0	2.0	0	1.0	0	1.0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	86.0	88.0	94.0	98.0	104.0

B. FUNDING: (Thousands of dollars)

GENERAL FUND	0	86.0	88.0	94.0	98.0	104.0
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	1 / 1	1 / 1	1 / 1	1 / 1	1 / 1
MAN MONTHS (P./T.)	/	12 / 3	12 / 4	12 / 6	12 / 4	12 / 5

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

We believe adoption of this bill will require the additional services of one person experienced in Oil & Gas refining and processing in the Department for preparation and evaluation of bids and the time of a contract attorney for bid and contract preparation. May also be necessary to employ consultant specialists to interpret and advise on petrochemicals and special products.

IV. ATTACHMENTS

V. DATE: April 24, 1975

PREPARED BY: O.K. Gilbreth, Jr.

O.K. Gilbreth, Jr.
Director, Division of Oil and Gas

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

The Legislature of the State of Alaska
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O.K. Gilbreth, Jr.
 Director, Division of Oil and Gas

Original: Legislative Finance
 cc. Budget and Management
 Prime Sponsor (First Legislator Named)

HB

438

COMMITTEE REPORT

4/16/75

HOUSE

FINANCE

Mr. Speaker:

Date 5-5-75

The Committee on RESOURCES has had HB 438

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR HB 438 AND THAT
CS FOR HB 438 DO PASS

() "and" recommends it BE REFERRED TO THE _____
COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

Neil A. Anderson _____
_____ _____
Thine Herchberger _____
_____ _____

Members NOT concurring in the Majority report:

_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:

Neil A. Anderson Chairman

The Legislature of the State of Alaska
FISCAL NOTE

First Session - Ninth Legislature

I. REQUEST

Bill No. HB 438
 Title: An act relating to the leasing of State lands
 Requested by: House Finance Date: May 15, 1975
 Return Date Requested: _____
 Agency: Lands- Natural Resources Program: _____

II. FISCAL DETAIL

Budget Request Unit(s) Affected: _____

A. EXPENDITURES: (Thousands of dollars)

- 0 -

OBJECT	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0				

B. FUNDING: (Thousands of dollars)

- 0 -

GENERAL FUND						
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

- 0 -

PERMANENT/TEMPORARY	/	/	/	/	/	/
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Work load will be absorbed into present staff and budget. May have to rely on accounting help in analyzing financial statements occassionally, but the increased cost of leases would tend to reduce the amount of leases. Generally the bill would have a positive fiscal impact rather than negative.

Present lease income per annum = \$ 851,173 (FY 74)
 Less Open to Entry Income -135,460
 Fixed at \$40 per year

IV. ~~XXXXXXXXXXXXXXXXXXXX~~ 50% increase in \$ 715,713 at 6%
~~ATTACHMENTS~~ 357,857 at 3%
~~XXXXXXXXXXXXXXXXXXXX~~ Lease Rentals \$1,073,570 at 9%

V. DATE: May 15, 1975 PREPARED BY: Kathy Jacobson for Kenneth H. Hallback

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LANDS

James N. Kraves
Assistant Attorney General
Department of Law

DATE: March 26, 1975

FILE NO:

TELEPHONE NO:

SUBJECT: AS 38.05.315

cc: Dale P. Tubbs
Deputy Director
Division of Lands

The Anchorage Hockey Association has applied for a non-profit lease as provided in AS 38.05.315 as a non-profit association to lease 80 acres of State mental health lands on which they propose to build a sports center and hotel. It appears the structure would be a multi-million dollar investment of which just the sports facility presently would exceed \$10 million. The hotel project has an estimated construction cost exceeding \$12 million. In viewing the request on the surface, I do not think we have a problem in that the Anchorage Hockey Association at this time would qualify as a non-profit corporation for the promotion of social welfare. In light of the recent overtures made in regard to the lease made to the Teamsters as a non-profit corporation, we now question to what limits does AS 38.05.315(b thru d) extend. If the Teamster's lease is to be left intact and have operating within their building, commercial enterprises, such as banks, restaurants, bars, barber shops, etc., then can the Anchorage Hockey Association also construct a building or facility that we know will house business opportunities that will not be run directly by the Anchorage Hockey Association. Prior to making a final determination as to whether or not the Anchorage Hockey Association's project is in fact within the limits of this statute, we request a review of that statute and give us your opinion on the limits that are allowed.

I am willing to meet with you and discuss past leases that have been entered into in regard to this statute and to the extent of uses that have been employed within them.

cc Kan Hallback
Ed Barber
L. T. Main
Mike Smith

AGO 935596 +

ALASKA PUBLIC INTEREST RESEARCH GROUP

P. O. BOX 1093
ANCHORAGE, ALASKA 99510

PHONE 274-8755

May 1, 1975

The following is the first installment in a study of state Division of Land policies. Section 1 pertains to right-of-way compensation across state leases. The second section refers to rental rates on state land leases. Lastly the report refers to the ADL policy toward interest rates on contracts for purchase of state lands. Further information on ADL policies and practices will be forthcoming over the next six months.

The Alaska Public Interest Group is a non-profit citizens group, formed to provide information to policy makers and the public on a wide range of public concerns, particularly insofar as those concerns affect Alaskan consumers and taxpayers. This report was prepared by APIRG employees James Love and Cathy Allen.

RIGHT-OF-WAY COMPENSATION ACROSS STATE LEASES

In 1974, CSHB 559 am S was passed by the legislature and allowed to become law without the governor's signature. The effective date of the bill was August 15, 1974. The act was passed in order to pre-emp, retroactively, provisions in State leases reserving the State's right to grant easements and exercise rights-of-way on land leases by the State. This provision, a standard section in every State land lease, is commonly known as paragraph six. Paragraph six states:

6. The Lessor (the State) expressly reserves the right to grant easements or right-of-way across the land herein leased if it is determined by the Director to be in the best interests of the State to do so; provided, however, that the Lessee shall be entitled to compensation for all improvements or crops which are damaged or destroyed as a direct result of the utilization of such easement or right-of-way.

HB 559 (AS 38.05.076) changed this provision, by providing leaseholders with the following interests in their leases:

Sec. 38.05.076 COMPENSATION RELATING TO EASEMENTS OR RIGHT-OF-WAY ACROSS STATE LEASES. (a) Provisions in State land leases to the contrary notwithstanding... the lessee shall be entitled to compensation for the

value of the easement granted or right-of-way
exercised and for the reduction in value of the
leasehold resulting from the granting of the
easement or exercise of the right-of-way...

Prior to the passage of this bill, leaseholders were not compensated for easements granted, or rights-of-way exercised by the state across state lands, except for improvements on the property, such as land fill, buildings, etc.. The state had, since statehood, reserved this interest in its leases. The importance of paragraph six in state leases cannot be overemphasized. With the provision in the lease, the state reserved the right to reclaim land needed for Highway expansion, utility easements, and for other public purposes. Under HB 559 the state will have to pay compensation to leaseholders in order to cross its own lands.

Richard P. Kerns, Assistant Attorney General for Highways, in a May 1, 1974 memo to then Attorney General Gorsuch, wrote that: "I believe the impetus behind this bill is a few leaseholders holding State leases on school land situated near the intersection of Minnesota By-Pass and International Airport Road at Anchorage."

Prior to the passage of the bill, two law suits had been filed against the State asking for a judgment that paragraph six of the lease forms could not be exercised by the State in rights-of-way proceedings against leaseholders in this area. The right-of-way in this area was for the expansion of the Minnesota By-Pass to International Airport Road. The first suit was filed by Rail-Air in 1971. The second suit was

filed on behalf of Wesway Steel, sublessor from Rail-Air. The suit was filed by Wesway Steel counsel, Bob Hartig, in August 1973. Neither suit was actively pursued by the leaseholders until after the passage of HB 559. Kerns, in his May 1974 memo, attributes this lack of aggressiveness to the following:

"It would appear, I should think, to anyone familiar with the above facts, that the reason no aggressive action has been taken in the two actions now pending in court is that CS 559 am S was anticipated, and that the bill is intended to apply to all existing leases whether past or future..."

Just how much compensation will be due leaseholders is unclear. Language spelling out what interest the leaseholder is due for a right-of-way is interpreted differently by different parties.

"The lessee shall be entitled to compensation for the value of the easement granted or right-of-way exercised and for the reduction in value of the leasehold resulting from the granting of the easement or exercise of the right-of-way...Values shall be determined by applicable eminent domain statutes..."

One interpretation of this is that the leaseholder would be entitled to compensation for the fair market value of the land taken for rights-of-way or easements, as though the leaseholder owned the land, even though the leaseholder is obligated to pay annual rent for the term of the lease.

The other interpretation is that leaseholders are entitled to compensation for the interest they hold in the lease, insofar as the lease has a fair market value in its own right. Generally speaking, the more favorable the terms of a lease, the more valuable the lease becomes, on the market.

Kerns referred to this situation, and its possible effect, in his May 1974 memo to the Attorney General:

"In my opinion, CS 559 am S creates a windfall for the leaseholders because the contract rent charged by the State is below market. What the leaseholders are seeking is for the state to pay them the market value of the advantage they hold because the State is not charging what the market indicates the rent should be. To me, this is a double travesty of justice..."

Leaseholders in the International Way Subdivision have extremely favorable rental rates. According to an appraisal conducted by Walter Potts on July 28, 1974, the following leaseholders pay the stated amounts of rent:

<u>Leaseholder</u>	<u>Land Value</u>	<u>Annual Rent</u>
The Three Baers	479,290 S.F. @ \$0.91/S.F. = \$436,000	\$2,380
Mizer & Sowash	169,884 S.F. @ \$1.76/S.F. = \$299,000	\$2,610
D. L. Fahrny	55,565 S.F. @ \$1.60/S.F. = \$ 88,904	\$ 840
Russ Meekins & James O'Malley	256,709 S.F. @ \$1.01/S.F. = \$259,000	\$1,980 \$4205.00

Potts' appraisal was conducted on behalf of the State, and it can be expected that the leaseholders will obtain appraisals which place the value of the land they lease somewhat

higher. In discussions with AkPIRG staff, one leaseholder, Russ Meekins Sr, claimed that the land he leases was worth close to \$4.00 per square foot, fee simple. This being the case, the value of the land he leases for \$1,980 per year would be worth close to a million dollars. In any event, it is clear that many leaseholders are paying the State substantially below the market 10% of the Fair Market Value rent. This rent advantage makes their leaseholds more valuable, and increases the likelihood of rather large compensations to the leaseholders from the State. Compensation due to leaseholders in this area may well exceed one million dollars, and, in any event, far exceeds total payments made on affected leaseholdings, as a result of HB 559. According to the 1974 ADL Annual Report, the school trust fund has received a total of \$6,253,701 in payment for rentals and right-of-way compensation on school lands since statehood.

In at least two areas, HB 559 has legal problems:

1) There is a constitutional prohibition against public appropriations except for a public purpose:

Article IX, Section 6. Public Purpose

No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose.

CSHB 559 am S gave leaseholders an interest in public lands they never owned in the first place. That interest may result

in public compensation if rights-of-way are exercised on State leases. The act was a windfall for leaseholders, and, in any event, compensation might not be construed as for a public purpose.

2) The U.S. Supreme Court, in Larsen v. Arizona, 87 S.Ct. 584 (1967) ruled that the State of Arizona had no power to grant a compensable property right to a private party, who had leased school trust lands, since that was contrary to the terms under which the State of Arizona had obtained the school trust lands. School lands were acquired by the State of Alaska through a grant to the State by the United States of America under Sec. 6(k) of the Alaska Statehood Act for the purposes for which they were reserved under Section 1 of the Act of March 4, 1915, (38) Stat. 1214; 48 U.S.C., Sec. 353), as amended. A portion of the act reads:

"That the entire proceeds or income derived from said reserved lands, are set apart as separate and permanent funds...to be invested and the income from which shall be expended only for the exclusive use and benefit of the public schools of Alaska..."

This may preclude the holder of any lease from sharing in the compensation paid for right-of-way or easements taken from school lands.

LEGISLATIVE HISTORY

HB 559 was originally introduced by Speaker of the House, Tom Fink, on February 5, 1974. The bill passed the House on April 17, and the Senate four days later on April 21. Legislators contacted by AkPIRG researchers indicated that the prime mover of the legislation was Russ Meekins Sr., a leaseholder in the International Way Subdivision who had received notice that approximately 6 acres of his land would be taken for a highway right-of-way. In addition to Meekins, Representative Bob Hartig lobbied legislators for the passage of the bill and testified before the House Finance Committee on the measure. Hartig, at the time, represented two leaseholders in the International Airport area who were also involved in right-of-way proceedings with the Highway Department.

Russ Meekins Sr. had experienced previous problems with the State exercising their right-of-way option. In 1960 Meekins leased approximately 34 acres of mental health lands in the Potter Marsh area. Subsequent to his leasing of the land, the State exercised its right-of-way and extended the Seward Highway through his leasehold. Meekins attempted unsuccessfully to get compensation for this. At one point, Keenan, Director of the Division of Lands, wrote to Bob Hartig, who was then working in the Attorney General's office, representing the Division of Lands, and asked if

the State could trade lands with Meekins to make up for the right-of-way taken from his leasehold. It appears that this was not followed through.

Shortly after his unsuccessful experiences in the Potter Marsh area, Meekins was informed that 5.933 acres of land, between International Airport Road and Minnesota Drive would be condemned by the State for the contraction of a new expansion of the Minnesota Bypass. Meekins had been leasing this land in partnership with the late James O'Malley. The property was valuable and Meekins had a favorable lease from the State. Since 1960, Meekins and O'Malley had paid something less than \$35,000.00 in rental payments on the land which had never been improved. Payment on the land as of 1974 was less than in 1960 when the leases were originally entered into.

Meekins lobbied aggressively for the passage of HB 559. The minutes of committee's meetings frequently refer to Meeking's comments including occasional references to amendments and committee substitutes that were being prepared for the bill. At one point, according to the minutes of the House Finance Committee, Russ Meekins Sr. was included in a subcommittee formed to iron out possible objections the Division of Lands might have with the legislation. The March 7, 1974, Finance Committee minutes state that a subcommittee meeting was held between Mr. Meekins Sr., Rep. Russ Meekins Jr. (appointed to the Finance Committee by the

Speaker months earlier to fill the vacancy created by Representative Hillstrand's death) and Deputy Commissioner William Fackler from the Department of Natural Resources. The minutes indicate that the purpose of the meeting was to place Fackler on the record as stating that he had no problems with the bill.

After HB 559 was passed into law, Mr. Meekins' situation at International Airport was substantially altered. Instead of receiving no compensation for land he had paid rent and taxes on in excess of \$50,000, Meekins stands to receive between \$250,000 and \$400,000 from the Courts if HB 559 is found to be constitutional. In addition to the payments Meekins may receive for this parcel, he currently holds in his name, or in the names of members of his immediate family, twelve other leases.

Representative Hartig represents clients who stand to benefit by this legislation as much as Meekins. Hartig became familiar with the problems in the right-of-way clause on State leases while representing the Division of Lands during his tenure as an Assistant Attorney General. After leaving the AG's office and entering private practice, Hartig represented clients who were having difficulties with the State regarding rights-of-way in state leases. On April 16, 1973, Bob Hartig wrote to the State, on behalf of Wesway Steel Company, rejecting an offer of \$15,000 for compensation of a leasehold being condemned for right-of-way

leased lands as a result of HB 559.

Legislators contacted by AkPIRG indicate that Hartig lobbied others for passage of HB 559. In addition, legislative records indicate that Representative Hartig testified on the bill during House Finance Committee hearings.

On March 28, 1974, the minutes of the House Finance Committee recorded Hartig's testimony on HB 559. According to the minutes, Hartig indicated that "He was speaking based on information obtained in the Attorney General's office in Anchorage...Under the lease forms that the Department (ADL) uses...the State in granting the lease reserves right-of-way across the land...the State is doing a disservice by forcing people to make leases under those circumstances. The State loses money because of that requirement being in the lease..." In addition to the above comments, the minutes of the meeting state that "Mr. Hartig said that his testimony was in no way self-serving."

RENTAL RATES ON STATE LAND LEASES

Rental rates on state land are initially determined either by competitive bid, or if through negotiation, a percentage of the appraised Fair Market Value of the land. All land leases, except those specifically exempted under 11 AAC 58.520 (Adjustment of Rental), have their rental rate readjusted every five years. The authority for these provisions are:

38.05.075 Leasing Procedure

"The leasing (of state lands) shall be made at public auction to the highest qualified bidder..."

38.05.105 Periodic Rental Adjustments

"Each lease shall stipulate that the annual rental payment is subject to adjustment at five-year intervals and changes or adjustment shall be based primarily on a reappraised annual rental value..."

In practice, the Division of Lands has set rental rates at 6% of an appraised value of the land being leased. There are no statutory or regulatory provisions which establish this percentage, nor do leases issued by the Division mention any specific formula as to how rental readjustment will be established. Discussions with ADL officials reveal a general lack of knowledge as to why this system is used. The state is not charging what the market indicates rent should be. Leases on the private market are readjusted at

around 10% of the market value of the land.

ADL practices had been extremely favorable to the leaseholders. In many cases, land was leased through auction at a fairly competitive rate and after five years, using the formula of readjusting rent at 6% of the land's appraised value, rents on lands were reduced by the Division. In reviewing the leasing of school and mental health lands in the Anchorage area, AkPIRG researchers discovered that many leaseholders are paying less rent now than 15 years ago on choice parcels of land.

The State's policy of establishing rental rates substantially below market values results in lost revenue for the State and encourages speculation by leaseholders.

AS 38.05.105 entitled Periodic Rental Adjustments states that readjustments will be "based primarily on a reappraised annual rental value..." This is the most specific language available indicating how rental rates will be adjusted. For the purposes of protecting the interests of the State, this could be amended to read as follows:

"Based primarily on a reappraised annual rental value which is the fair market value of the leasehold and in no event less than 9% of the appraise fair market value of the land, excluding improvements."

On the other hand, it appears that the division could accomplish this administratively without the need for new

legislation. This second course of action is favored by ADL officials who want more time to analyze the problem.

Based upon our discussions with ADL officials, we feel that further study of the problem is reasonable. We are satisfied that ADL officials are concerned about the situation and have confidence in their renewed efforts to deal with this issue.

AGO 935610

INTEREST ON CONTRACTS FOR PURCHASE OF LANDS

When land is offered for sale by the State, a successful bidder may purchase the land on contract.

11 AAC 54.300 Maximum Term

"Persons purchasing State land may do so under contract...in annual installments of not less than 10 percent of the original principal...excluding interest..."

On contracts for sale, the interest on the unpaid principal is established by regulation.

11 AAC 54.310 Interest

Interest shall be charged on all contracts of purchase at the rate of six percent per annum on unpaid balances.

AS 38.05.065 Terms of contract for sale

"...interest at the rate of not less than five percent a year..."

The statutory minimum for interest was established in 1959 at 5%. In 1969, the regulation establishing the interest rate was amended to provide that all interest payments would be six percent. The six percent rate is currently in effect. ADL officials are currently preparing for the June 7, 1975 sale of 206,000 acres of land in the Kenai Peninsula area, (North Kenai Area Auction #225)

Discussions with ADL officials indicate that current market conditions justify an interest rate of more than 8-1/2% on the sale. The 8-1/2% figure is based on an April 15, 1975 study by ADL appraiser Bruce Atkinson of 35.1974 land sales in the Kenai Peninsula Area.

The regulation setting the interest rate will not allow this, since it does not provide a minimum. The regulation just states that interest rates will be a flat 6%. The regulation could be changed, but not before the Kenai land sale takes place. The legislature could remedy this by amending the enabling statute for the regulation, providing that interest rates shall be a minimum of 8 percent.

Sec. 38.05.065 Terms of contract sale

"...interest at the rate of not less than eight (FIVE) percent a year..."

MEMORANDUM

TO: Norman C. Gorsuch
Attorney General
Juneau AGO

Attention: Donna Pegues
Assistant Attorney General

DATE May 1, 1974

FROM: Richard P. Kerns, AAG
Highway Section
Anchorage AGO

SUBJECT: CSHB 559 ams

I welcome this opportunity to pass on some comments in connection with the above referenced bill for consideration by the Attorney General while reviewing this bill for the Governor. I believe the impetus behind this bill is a few leaseholders holding State leases on school-land situated near the intersection of Minnesota By-Pass and International Airport Road at Anchorage.

The history (as it is known to me) of grants of right-of-way to the highway department by the division of lands over State lease lands begins with a lease dated September 15, 1959, granted to a now defunct corporation called Territory Supply Company, the name of which was later changed to Warehouse Terminal Park, Inc. This lease covered the area shown in cross-hatch on Exhibit "A" attached and contains in pertinent part the provision that:

(a) "IT IS HEREBY COVENANTED AND AGREED by both parties hereto that this lease is issued subject to all of the provisions and requirements thereto, which are found in the Alaska Land Act of 1959, and the regulations issued thereunder, . . . , the same as though they were set forth in full over the signature of the contracting parties hereto."

Regulations issued under the authority of the Alaska Land Act of 1959 provides in pertinent part that:

The lessor expressly reserves the right to grant easements or rights of way across leased land if it is determined in the best interest of Alaska to do so. The lessee whose lands such easements or rights of way shall cross shall be entitled to damages for all improvements or crops destroyed or damaged. Damages shall be limited to improvements and crops only and loss shall be determined by fair market value.

A portion of this original lease (depicted in cross-hatch on Exhibit "B") through a series of eight assignments, came into the hands of Rail Air Industrial Park, Inc.

Warehouse Terminal Park, Inc. defaulted on the balance of the original lease and a new lease was granted by the Division of Lands under date of July 27, 1961 to Jet Terminals, Inc. This new lease contains the express provision that:

"The Lessor expressly reserves the right to grant easements or rights-of-way across the land herein leased if it is determined to be in the best interests of the State to do so; provided, however, that the Lessee shall be entitled to compensation for all improvements or crops which are damaged or destroyed as a direct result of such easement or right-of-way."

The portion covered by this new lease is shown in cross-hatch on Exhibit "C". This lease remained in Jet Terminals Inc. until July 31, 1968 when it was assigned to Rail-Air Industrial Park Inc., subject, however, to a small portion shown blocked in on Exhibit "D" which Jet Terminals had sub-leased to Robert L. Hartwig. (Not to be confused with attorney for Wesway Steel and State Representative Robert L. Hartig).

At this status of ownership of the property thus far mentioned, the Division of Lands granted a right-of-way to the department of highways by Inter-departmental Land Management Transfer No. 41850 dated January 23, 1969. This grant covered the property shown in cross-hatch on Exhibit "E". The purpose of this right-of-way was to extend the Minnesota Bypass from Northern Lights Blvd. to International Airport Road, which project has, of course, been completed and in use for some time.

Following procedures outlined in a memorandum opinion dated July 31, 1962, by Michael M. Holmes, then Assistant Attorney General, (Exhibit "F") the State paid a total of \$5400.00 for improvements pursuant to the terms of the lease agreements and \$29,850.00 to the school trust fund as the sum representing the full value of the land granted. This latter payment to the trust fund for full land value follows (so I have been told by previous assistants to the attorney general for lands and highways), the reasoning set forth in the U. S. Supreme Court decision in Larsen v. Arizona, 87 S.Ct. 584 (1967) a copy which is attached for your convenience as Exhibit "G". After considerable discourse between attorneys for the State and H. Russell Holland, attorney for Rail-Air, as to whether the terms of the lease really meant what was said therein, action was commenced on April 13, 1971, against the State by Holland on behalf of Rail-Air. Answer was filed by the State setting forth among other things the defense of the terms of the lease. Nothing further has happened in the case.

by the Highway Department, Wesway Steel had purchased the sublease from Rail-Air in January 1971. According to memoranda in the Attorney General's office regarding this transaction, Wesway Steel entered into the sublease after Rail-Air was notified that the State would be exercising the right-of-way.

On August 14, 1973, Hartig, on behalf of Wesway Steel, commenced an action against the State for a judgment declaring that the State does not have the right to exercise "paragraph 6" of the lease without paying market value for this leasehold interest in addition to the value of the improvements. The action was answered by the State and not pursued aggressively by Hartig until the passage of HB 559. Dick Kearns, Assistant Attorney General representing the Highway Department, in a memo dated May 1, 1974, to then Attorney General Gorsuch, attributes this lack of aggressive action to the fact that Hartig and his clients anticipated the passage of HB 559. Prior to the passage of HB 559, Hartig's client would have received \$15,000 in compensation for improvements on the leasehold. If HB 559 remains intact, Wesway Steel may receive between \$233,000 and \$315,000 in compensation.

In addition to Wesway Steel, Hartig represents R. D. Mizer and Bob Sowash in right-of-way litigation. Mizer and Sowash lease school lands in the same general area. Their compensation may be in excess of \$300,000 for 3.9 acres of

Subsequent to the granting of this right-of-way but prior to initiating action against the State, to wit, January 26, 1971, Rail-Air assigned the portion of its lease shown in cross-hatch on Exhibit "H" to Wesway Steel Company, Inc. Rumor has it that, in spite of the knowledge that Rail-Air had that the State was exercising the terms of the lease and the plain language in the lease itself, Wesway paid a considerable sum to Rail-Air for this sub-lease.

During this state of ownership, Lands in January, 1973 issued another group of transfers granting right-of-way over the portion shown in cross-hatch on Exhibit "I" to highways. This latest transfer involved the following:

Parcel No. 1 (Exhibit "J" total lease area heavy line. Portion for R/W in cross-hatch)

LESSEE: Pacific Seal Co. of Alaska
Mortgages: Small Business Administration
Mortgage: Matanuska Valley Bank

Parcel No. 2 (Exhibit "K")

LESSEE: Rail-Air

Parcel No. 3 (Exhibit "L")

LESSEE: Wesway Steel

For these parcels 1, 2 and 3 the department of highways paid or tendered

School Trust Fund	\$585,700
Sublessee Hartwig for warehouse	\$ 99,900
Tendered Wesway Steel for landfill	35,000
Tendered Rail-Air for landfill	\$ 20,000
Trailer park and utility hookups	\$ 3,300

In response to this latest exercise of paragraph 6 of the lease agreements, the State received letters from attorneys for Rail-Air (Exhibit "M") and Mat Valley Bank (Exhibit "N"). Wesway Steel, on August 14, 1973, through its attorney Robert L. Hartig, commenced action for judgment declaring that the State does not have the right to exercise paragraph 6 without paying market value for the leasehold interest in addition to the value of the improvements. Answer was made by the State and, again, nothing further has happened in this action.

It would appear, I should think, to anyone familiar with the above facts, that the reason no aggressive action has been taken in the two actions now pending in court is that CS 559 was anticipated, and that the bill is intended to apply to all existing leases whether past or future. In my opinion CS 559 creates a windfall for the leaseholders because the contract rent charged by the State is below market. What the leaseholders are seeking here is for the State to pay them the market value of the advantage they hold because

Norman C. Gorsuch
Re: CSHB 559

May 1, 1974
Page 4

the State is not charging what the market indicates the rent should be. To me this is a double travesty of justice. For a succinct explanation of this principle of contract vs. economic rent see The Appraisal of Real Estate, American Institute of Real Estate Appraisers, (Sixth Edition 1973). A copy of a portion of the text is attached as Exhibit "O". In other words, if the leases required market rent, there would be no particular market value in the leasehold interests. Surely the object of the State in leasing this land is for a purpose other than merely trafficking in their speculative value. And in those instances where a leaseholder has obtained a lease and actually made improvements, why is he not made whole by paying him for the value of those improvements and by making an appropriate adjustment in the lease payments? All of which is done under the present law.

Common sense and basic fairness alone should compel a provision be included before approval to at least require an election by the leaseholder to the effect that if he elects to have the State pay market value, he agrees to pay market rent to the State on the remainder of the leasehold. For the State to pay him market value, but condone his continuing to pay the State for less than market value, is, in my opinion, unconscionable.

In addition to what is, in my view, a windfall to the leaseholders under CS 559 am, it is very possible that the department of highways will still have to make payment to the trust fund for the full value of the land. In the ordinary case of privately leased lands where the contract rent is below market the lessors interest has a minimal market value. But how can the school trust fund be penalized because the trustees are not charging market rent?

There is also the possibility that the Bureau of Public Roads may not participate in this additional payment to the leaseholders, but the question of this possibility is better addressed to the highway department right-of-way section at Juneau

Finally, there is attached as Exhibit "P", an AMATS map of the Greater Anchorage area showing the extent of State administered property which is either leased or available for leasing under the same terms as the property which I believe gave rise to this bill.

In conclusion, I can only say that I see no merit in a bill which would compensate a few people for the fact alone that they have had the good fortune to hold a lease from the State with below market rental rates, in addition to compensating them for the value of the improvements they may have placed on the property.

RPK/smk

Enclosures (Exhibits "A" to "P" and AMATS map)

AGO 935617

HOUSE FINANCE COMMITTEE

March 7, 1974

3:55 P.M.

PRESENT This was a Sub-committee Meeting between Representative Meekins, and Mr. Meekins Sr. and Mr. Fackler regarding HB 559,

HB 559 Rep. Meekins asked Mr. Fackler for his comments on HOUSE BILL NO. 559 (An Act relating to compensation for the taking of rights-of-way leases).

Mr. Fackler said they really had no particular problems with it. He understood it was a bill to take care of some conditions that have come up where they have given a lease to a person who takes it and does something with another part effecting the right-of-way which turns out to be bigger than anyone thought it would be.

Mr. Fackler said that Mr. Hogan had asked about a fiscal note on the bill, but he said they didn't see that it would result in additional cost except for what the settlement might be.

Rep. Meekins said he had just wanted to make sure Mr. Fackler didn't have any problems with the Bill, and Mr. Fackler reiterated that there weren't any.

3/7/74

AGO 935618

(Compensation for taking of rights-of-way across state leases).

Mr. Hartig and Mr. Meekins Sr. were present to testify.

Mr. Meekins Sr. said there was going to have to be a Committee Substitute for the bill. They had discovered that the language had accidentally been taken from the portion of the statutes dealing with oil leases instead of the right one.

Mr. Hartig said that his testimony was in no way self-serving. He was speaking based on information obtained in the Attorney General's Office in Anchorage. Under the lease forms that the Department uses and, in particular, Natural Resources, there is a Section 6 which provides that the State in granting the lease reserves right-of-way across the land. The section does not refer to any specific amount. If they take the right-of-way, the only compensation they have to make is reduction of the lease cost for the amount of land actually taken plus the actual value of improvements. The State is doing a disservice by forcing people to make leases under those circumstances. The State loses money because of that requirement being in the lease, since it effects the way the lessee bids.

Mr. Hartig said that when he was in the Attorney General's Office, he came up against this many times. If a person owns a lease, it is usually worth money, but not in Alaska. The problem has never been litigated because it is usually settled out of court.

Mr. Hartig said that the federal government has a right-of-way clause in its leases too, but it is more specific. It doesn't leave it open the way the State does. He thought that by having the clause in the lease, it was a way for the Department of Highways to obtain land without paying anything. This means leasehold interests aren't worth anything. He didn't know of any other lease that is that way.

Mr. Hartig thought the Committee Substitute would be more in line with what the law really was.

There was some general discussion on the matter.

Chairman Freeman thought they were spending too much time on what was really a legal matter. It was moved that the Committee report it back to the Judiciary Committee for further work. There was no objection, it was so ordered.

RECESS

Meeting recessed at 3:20 P.M.

ALASKA PUBLIC INTEREST RESEARCH GROUP

P. O. BOX 1093
ANCHORAGE, ALASKA 99510

PHONE 274-6765

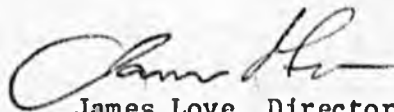
May 14, 1975

Representative Neils Anderson
Pouch V
Juneau, Alaska 99801

Dear Mr. Anderson;

I would like to thank you for your interest and concern demonstrated towards problems concerning the leasing of state lands and, particularly, your prompt and timely consideration of HB 438. I felt a little awkward, during and after the hearings on the bill, but I meant to express my appreciation of your efforts. Thanks again.

Sincerely,



James Love, Director
Alaska Public Interest Research Group

JL/tk

AGO 935620 +

HB
438

TELEGRAM

WCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

04087 POM ANCHORAGE ALASKA 15 05-19 212P ADT

PMS REP NELS ANDERSON 2247

JUN

I OPPOSE 438. SUGGEST ANCHORAGE HEARING. ADDITIONAL
INFORMATION WILL BE PROVIDED

PAUL J NANGLE 705 WEST 6 AVE 99501

AGO 935621 +

TELEGRAM

RCA ALASKA COMMUNICATIONS

PHONE: 586-6440

JUNEAU, ALASKA 99801

04087 POM ANCHORAGE ALASKA 15 05-19 212P ADT 1075 MAY 19 PM 10 41

FMS REP NELS ANDERSON

JUN 2303

I OPPOSE 438. SUGGEST ANCHORAGE HEARING. ADDITIONAL
INFORMATION WILL BE PROVIDED

PAUL J NANGLE 705 WEST 6 AVE 99501

AGO 935622

TELEGRAM

FOR ALASKA COMMUNICATIONS, INC.

PHONE: 536-6440

JUNEAU, ALASKA 99801

04045 POM ANCHORAGE ALASKA 15 05-19 1200P ADT

1975 MAY 19 PM 10 35

PMS REP NELS ANDERSON

2336

JUN

NEED HEARING. PLEASE VOTE NO HB438, WOULD DESTROY VALUE OUR
NONE ONE STATE LEASE LAND

DOUGLAS ELIZABETH RICHARD JOHN BETTY FLORENCE HOTES 1900

WEST HOTEKO AVE ANCHORAGE 99502

AGO 935623

TELEGRAM

MCA ALASKA COMMUNICATIONS, INC.

PHONE: 534-8140

BUREAU: ANCHORAGE 99501

04167 POM ANCHORAGE ALASKA 15 05-19 600P ADT

FMS REP NELS ANDERSON

2451
JUN

LOAN ON STATE LEASE REFUSED BECAUSE DISPUTE OVER SECTION 6

VOTE AGAINST HB438

WILLIAM H JACKSON TALKEETNA CARE H AND H GROCERY

AGO 935624

TELEGRAM

WCA ALASKA COMMUNICATIONS, INC.

PHONE: 586-6440

JUNEAU, ALASKA 99801

02026 POM ANCHORAGE ALASKA 15 05-19 600P ADT

PMS REP NELS ANDERSON

2452

JUN

1E438 COMPLETELY CHANGES CONCEPT OF LEASES NEED MORE WORK

SCHEDULE HEARINGS

BOB MAGNIER BOX 4-2141 SPENARD

AGO 935625

HB

480

"An Act making a special appropriation to the Office of the Governor; and providing for an effective date."

COMMITTEE REPORT

5/5/75

HOUSE

FINANCE

Mr. Speaker:

Date 5-8-75

The Committee on RESOURCES has had HB 480

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR HB 480 AND THAT

CS FOR HB 480 DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

Nels O. Anderson _____

Richard L. ... _____

... _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Nels O. Anderson Chairman

The Legislature of the State of Alaska
FISCAL NOTE

First Session - Ninth Legislature

I. REQUEST

Bill No. HB 480
 Title: An Act making a special appropriation to the Office of the Governor
 Requested by: House Resources Committee Date: May 8, 1975
 Return Date Requested: May 8, 1975
 Agency: Office of the Governor Program: Development

II. FISCAL DETAIL

Budget Request Unit(s) Affected: Office of the Governor

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
100 PERSONAL SERVICES						
200 TRAVEL		10.0				
300 CONTRACTUAL		15.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		25.0*	-0-	-0-	-0-	-0-

*estimated

B. FUNDING: (Thousands of dollars)

GENERAL FUND		25.0*	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						

*estimated

C. POSITIONS:

PERMANENT/TEMPORARY	/	/	/	/	/	/
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The nine-member Bristol Bay Regional Development Council was created (ch. 4, SLA 1974, SSS) to prepare a "proposed long term economic and social development program for the (Bristol Bay) region." The Council's activities were funded by an FY 1975 appropriation of \$175,000 to the Office of the Governor. The Council has submitted an interim report and has made contractual arrangements to fulfill its mandate before convening of the Second Session. Requested funds are to extend the legal existence and activities of the Bristol Bay Regional Development Council to the completion of their program. An estimated \$25,000 in uncommitted funds from the FY 1975 appropriation will be available at the close of FY 1975 and it is the intent of the Legislature that actual expenditures by the Council during FY 1976 not exceed the unexpended balance of the FY 1975 appropriation.

V. DATE: May 8, 1975 PREPARED BY: Kevin Waring, Director
 Division of Community Planning
 Department of Community and
 Regional Affairs

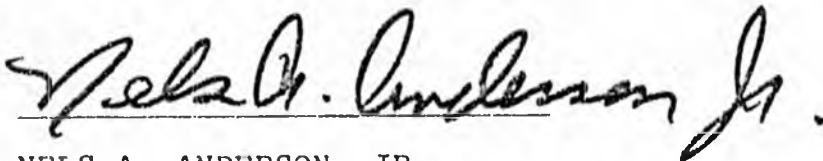
Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

HOUSE RESOURCES COMMITTEE REPORT

ON HB 479 AND HB 480

IN REPORTING OUT THESE TWO BILLS, THE COMMITTEE RECOGNIZES THAT THE CONDITIONS WHICH EXISTED WHEN THE BRISTOL BAY AREA WAS DECLARED A DISASTER AREA AND THE BRISTOL BAY REGIONAL DEVELOPMENT COUNCIL WAS FORMED, STILL EXIST. THE REASON FOR THE EXTENSION IS TO CONTINUE THE PROGRAMS ALREADY IN PROGRESS TO ALLEVIATE THE PROBLEMS OF THE AREA.

THE FUNDS PROVIDED FOR IN CSHB 480, BASICALLY REFLECT THE AMOUNT OF MONIES WHICH WILL BE UNEXPENDED ON THE ORIGINAL EXPIRATION DATE OF JUNE 30, 1975, AND SHOULD COVER THE EXPENSES FOR THE EXTENDED LIFE OF THE COUNCIL.



NELS A. ANDERSON, JR.
CHAIRMAN- HOUSE RESOURCE COMMITTEE
MAY 8, 1975

HB

518

"An Act relating to the Department of Environmental Conservation:
and providing for an effective date."

COMMITTEE REPORT

5/21/75

HOUSE

Mr. Speaker:

Date May 22, 1975

The Committee on RESOURCES has had HB 518

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR HB 518 AND THAT

CS FOR HB 518 DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>Helen A. Anderson</u>	<u>Alvin C. Stroh</u>	_____
<u>Frank G. ...</u>	<u>THUR Hershberger</u>	_____
<u>...</u>		_____
<u>Quincy Huntington</u>		_____

Members NOT concurring in the Majority report:

_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:

Helen A. Anderson Chairman

Nels Anderson

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, Governor

POUCH K - STATE CAPITOL
JUNEAU 99801

May 23, 1975

Honorable Willard Bowman
Chairman
House Rules Committee
Pouch V
State Capitol Building
Juneau, Alaska 99811

Re: CS HB No. 518

Dear Representative Bowman:

I have reviewed CS HB 518 with Commissioner Mueller and the bill, in our view, has the following problems:

1. There should be added on page 2, line 17, after the word "inspection", the following additional language:

"and the 30 day period for public comment under subsection (b) has expired"

This language makes it clear that the Commissioner may not waive the balance of the 60 day period, unless the public has had the full 30 day time period to comment.

2. Section 3, adding a new subsection (e) should be deleted in full. The provision allows waiver of the public notice provisions of subsection (b) where there is not a substantial alteration in the waste disposal system "which materially changes the general character of the system". Biologically it is the character and flow of the discharge which is important, not the change in the "system" which is the hardware. But even using a change in the flow and character of the discharge as the criteria would create problems. For example, an increase in flow or discharge which is small in volume may be substantial if the receiving waters are small (like a small stream). On the other hand, a large increase in discharge may be insubstantial if the receiving waters are a large body of water.

Honorable Willard Bowman
Chairman

May 23, 1975

-2-

The ambiguity of the term "substantial" and our inability to come up with a single definition which would cover all biologically safe expansions leads to the conclusion that the suggested amendment would be impossible to apply in any uniform way.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Sanford Sagalkin
Assistant Attorney General

SS:jeh

cc: Commissioner Mueller
Guy Van Doren

H13 518

3:00 p.m.

An act relating to the Department of Env. Cons.
and providing for an effective date.

Alyeska has currently filed applications for permits to expand the sewage treatment facilities at four temporary construction camps, namely, Atigun, Chandalar, Delta and Isobel. These temporary construction camps consist of communities of several hundred men which provide a residence center for these men while working on various phases of construction of the pipeline project within the general geographic area of each camp. These are temporary residence camps and are not intended to be a permanent and continuing part of the ultimate pipeline project. These temporary camps do not discharge any chemicals or other industrial wastes. The sewage discharge from the camps consists of water carried human, kitchen or animal wastes from residences and buildings.

Under the provisions of AS 46.03.100 (a), a waste water disposal permit from the Department of Environmental Conservation is required to be obtained by a commercial or industrial enterprise that will discharge waste materials into the waters of the State. Under the provisions of AS 46.03.100 (b) a waste disposal permit does not have to be procured from the Department of Environmental Conservation before disposing of the waste material if the person is discharging only domestic sewage into a sewerage system. However, Sec. 46.03.720 provides that no person may construct, extend, install or operate a sewage system or treatment works or any part thereof until its plans have been reviewed by the Department and the Department issues a written permit. Under Sec. 46.03.720 the Department may waive the requirement that plans be submitted to it. Sec. 46.03.100 sets forth the procedure for the issuance of waste disposal permits. This statute specifically states that the application for the permit must be made at least 60 days before commencement of any proposed discharge of waste material into the waters of the State. In addition, that statute provides a minimum of 30 days public notice which should be published in a newspaper of general circulation within the general area in which the disposal of waste material is proposed. Also, a copy of the application must be sent to the Commissioners of Fish & Game, Natural Resources, Economic Development and Health & Social Services.

The current applications pending before the Department of Environmental Conservation request the approval of plans for the installation in parallel of treatment facilities which have already been approved by the Department in other applications. The field inspection and review of the plans have been completed. There is no question that the facilities under discussion meet the definitions contained in the statute for treatment works and sewage systems.

Applications for these expanded treatment facilities were filed on April 22, 1975. The Department of Environmental Conservation did not start the public notice period until this week. Under the statutes, a minimum of 30 days must pass prior to the termination of the public notice period. In addition, under AS 46.03.110, the earliest date of discharge for these expanded facilities will be June 22, 1975. This is because the provisions of that section of the statutes state that the application for the permit must be made at least 60 days before commencement of any proposed discharge of waste material into the waters of the State. The Commissioner of Environmental Conservation has no authority to waive or modify this statutorily mandated time frame. Alyeska is unable to increase the camp population at Atigun specifically and at the other camps because of its inability to use these installed expanded treatment facilities which have already been reviewed and approved by the Department. It must bus workers 20 miles each way to the camp site for purposes of commencing the jobs designated for them at an additional labor cost of \$4,000.00 per day. This will add approximately \$240,000.00 to the cost of the pipeline project.

The following points should be emphasized:

1. This bill does not compel the Department of Environmental Conservation to waive these procedural requirements. The bill clearly states that the Department may waive these procedural requirements in the public interest.
2. This bill does not eliminate any requirements for Alyeska to obtain permits and satisfy the substantive criteria designated by Department personnel.
3. This bill does not compel the Department to waive its review of any plans for such sewage treatment facilities. The Department still has the authority to review the plans to compel modifications which it deems necessary to protect the environment and to attach appropriate stipulations to any permits granted under the waste disposal permit sections of the statute.
4. This bill does permit the Department to carefully consider and balance the additional costs of the pipeline project against the procedural delays built into the statutes and regulations it administers.
5. The Department does not oppose the bill, nor does it specifically endorse the bill. The Commissioner will abide by the will of the legislature in this matter.
6. The legislature can review the situations in which these waivers are granted, if indeed they will be granted by the Department, to determine whether or not the Department is acting in an appropriate manner in protecting the public interest and, if the legislature does not believe it is doing so, it can either repeal this legislation or set specific criteria next year.
7. This bill has a specific statutory cut-off date of January 1, 1978. Therefore, this bill is not a

grant of this authority in perpetuity, but only during the duration of the construction of the trans-Alaska pipeline.

Under current construction scheduling procedures, it is very difficult for Alyeska to predict its manpower needs at these various camps and its construction requirements for a period much beyond 60 days. The reason for this is because of changes dictated through factors not necessarily within Alyeska's control, such as, the late delivery of materials, the need for field engineering redesign of various aspects of the project, and the results of current testing programs of various components of the pipeline which may dictate further engineering changes, as well as other similar factors which are always present in major construction projects.

In discussing this bill with the Department, the Department has indicated quite clearly that it will not readily grant such waivers, but the granting of any waivers will depend upon its satisfaction that Alyeska has exhausted other alternatives and finds itself in a situation which compels the need for this waiver in order to prevent the incurring of unnecessary or unpredicted costs.

Examples of situations in which such a waiver might be granted are as follows:

1. Assume that Alyeska, because of a delay in the receipt of materials ordered in advance, is unable to start or complete a particular phase of pipeline construction in one of the pipeline areas. Therefore, in order not to delay the project and waste labor costs, it will shift camp populations to other areas on the project in order to undertake other aspects of the project which can now be undertaken without the need for the particular materials. To do anything else would be negligent and would vastly increase the cost of the pipeline. However, because such circumstances beyond its control, it cannot shift the camp populations without causing great additional expense as a result of the specific time frames mandated. Under these circumstances, a waiver may be considered by the Department.
2. Assume that an existing sewage treatment plant, which has already been appropriately permitted, suddenly breaks down, and Alyeska can install a substitute unit or a supplemental unit in parallel to take over the sewage treatment operation in a shorter time than it will take to repair the broken unit. Nevertheless, that particular unit in substitution or parallel would still be required to wait 60 days until it could begin processing sewage. Again, it seems unreasonable to penalize Alyeska for such mechanical breakdowns if they cannot be fixed within the appropriate time frame.

Again, Alyeska would be faced with this busing situation at greatly increased labor costs.

3. Assume that the Department of Environmental Conservation, through bureaucratic mistakes, does not promptly start public notice publication. Should Alyeska be penalized for this inaction or delay which was not caused by its own negligence or its own lack of advance planning? This again would seem to be a situation which would compel the Commissioner to seriously consider granting a waiver from the procedural requirements.

Alyeska anticipates similar problems such as those described being experienced with air quality and solid waste disposal site permits. Some flexibility must be built into the procedural process specified in the permit issuance procedures to facilitate pipeline construction. This flexibility quite properly belongs in the Commissioner or the Department responsible for regulating this phase of pipeline environmental protection activities. That is all this bill does. If the legislature wishes, it can closely follow the situations in which these waivers are granted and take appropriate action at the next session if it believes this discretion being delegated to the Commissioner by the legislature has been abused.

It should be remembered that any unnecessary costs incurred in the construction of this project, particularly those caused by the need to comply with State procedural requirements, will inevitably be capitalized into the rate base for tariff making purposes. These unnecessary costs will be reflected in the wellhead price of North Slope oil. Therefore, the people of this State have a stake in minimizing unnecessary pipeline construction expense. This bill serves that interest also.

TO NELS A. ANDERSON
CHAIRMAN, HOUSE RESOURCES COMMITTEE

FROM: GUY A. VAN DOREN ^(GAD)
STAFF ASSISTANT, HOUSE RESOURCES COMMITTEE

SUBJECT: HB 518

THE DEPARTMENT OF ENVIORMENTAL CONSERVATION, THROUGH JERRY RIENWAND,
HAS INDICATED THAT THEIR POSITION ON HB 518 IS ^{NEUTRAL} ~~NEU~~TURAL AT THIS TIME.
WHILE THEY SUPPORT THE IDEA OF MORE FLEXIBILITY, THEY HAVE TO ANSWER TO
THE ENVIORMENTALISTS REGARDING THIS MATTER. THERE IS SOME DISTRESS
WITHIN THE DEPARTMENT THAT THIS LEGISLATION FAVORS ONE PARTICULAR
INDUSTRY AND NOT OTHERS, BUT SEE THE ^{NECESSITY} ~~NECISITY~~ FOR THE LEGISLATION.

THEY HAVE INDICATED THAT THEY ARE NOT GOING TO TESTIFY AT THIS
HEARING AND THAT THEY HAVE ALREADY MADE THEIR STAND CLEAR TO WILLARD
BOWMAN.

HB

521

"An Act creating the Mendenhall Flats State Game Refuge; and providing for an effective date."

COMMITTEE REPORT

1/15/76

HOUSE

Mr. Speaker:

Date 2-11-76

The Committee on RESOURCES has had SSHB 521

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR SSHB 521 AND THAT
CS FOR SSHB 521 DO PASS with attached amendment.

() "and" recommends it BE REFERRED TO THE _____
COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

Walter A. Anderson _____
Mike Hershberg _____

Members NOT concurring in the Majority report:

_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:

Walter A. Anderson Chairman

A M E N D M E N T

OFFERED IN THE SENATE:

HOUSE
XXXXXX

By: HOUSE RESOURCE COMMITTEE

To: AMEND SENATE BILL No. _____

HOUSE BILL No. CSSSHB521

PAGE: 3

After LINE: 17, Before Sec. 2

ADD A NEW SECTION

(f) Leases, permits and applications existing as of the effective date of this Act, shall be unaffected by this Act. Any renewals of leases or permits shall be subject to the restrictions of this chapter.

Virginia E. Kline

MAYOR OF JUNEAU

R.R. 5 Box 5916. JUNEAU, ALASKA 99803

House Resource Committee:

copy of testimony presented at 1/30/76 hearing

The present City & Borough Assembly has not taken a stand on this bill, but 2 years ago we did go on record in favor of public ownership of the Mendenhall wetlands. HB 521, creating the Mendenhall Flats State Game Refuge, appears to be a step in the direction of achieving that goal, although this bill speaks just to State lands. Creamers Dairy and Potters Marsh are two examples of areas where the State purchased private land using both fish & game fund and general fund monies to match Pittman-Robertson monies. The State might want to continue this practice of acquisition in the Juneau area. The City has already allocated open space funds, some of which could be used in such a project.

We do, however, have a couple of hesitations about this bill, most of which appear to be covered in the proposed committee substitute. The concerns are airport expansion, a site for a second bridge crossing of the Channel, and possible Channel dredging sometime in the future. The last concern is some kind of port/harbor facility at the end of Mendenhall Peninsula. Because there are no wetlands in that area, the northwest corner easily could be moved slightly eastward to exclude the potential harbor area.

Virginia E. Kline

Virginia Kline

JUNEAU MENDENHALL TIDELANDS

WHEREAS Juneau Mendenhall tidelands are an estuarine nursery that enhances fisheries in the area and a source of abundant foods attractive to waterfowl, thus are an important recreational and economic resources of the community; and dredging, filling, dumping and other destructive land use practices continue to degrade the tidelands; and the need for protection of the Mendenhall tideland was recognized in 1966 when the Council first urged protection of the area by resolution; and the Alaska Department of Fish and Game prepared in 1967 professionally competent management plan for these tidelands; and the University of Alaska's Institute of Social, Economic and Government Research endorsed the ADF&G plan in 1971 after a study of social, biological and economic factors involved; and the Spokane, Wash. consulting firm, Environmental Concern, Inc. in a 1972 Borough financed study reiterated the need for protection and preservation of these tidelands; and the Assembly of the City and Borough of Juneau recommended and urged the acquisition and management of much of the Juneau tidelands by State Agencies in 1974; and the National Marine Fisheries Service, the U. S. Fish and Wildlife Service, the Alaska Department of Fish & Game, other qualified agencies and professionals have repeatedly reiterated the value of preserving these tidelands for the record of public hearings in Juneau; and tideland destruction continues in spite of massive public concern and in spite of the previously mentioned diverse professional opinion;

BE IT RESOLVED the Council urges that the Governor and the State Legislature in view of the overwhelming public and professional opinion take all appropriate action to end further destruction of this valuable resource.

Adopted by the Alaska Wildlife Federation and Sportsmen's Council, November 1, 1975,
Juneau, Alaska

From: Rosemary Gute
Box 2, Juneau
Alaska, 99802

January 29, 1976

To: Representative Mike Miller
House of Representatives
State Legislature, Juneau, Ak.

Dear Mike,

This is a letter of support for Bill No. 521 "An Act Creating the Mendenhall Flats State Game Refuge and providing for an effective date".

As you know, many people have been involved on and off for the last ten years in an effort to preserve what remains of the wetland area in Juneau.

A group of about forty people, which I represent, was instrumental in preventing development of a gas and oil storage facility; and a gravel dredging operation within the boundaries outlined by the bill.

The land in question is a rich estuarine area and supports an abundant supply of migratory waterfowl and young marine life. It is heavily used by the local populace for recreation and for educational purposes. One of its most unique aspects, and perhaps the easiest to overlook, is its ease of access by all who live in the area. It thus adds significantly to the advantages of living in Juneau. I urge passage of this bill.

Sincerely,

Rosemary Gute

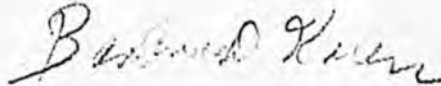
BARBARA D. KALEN
Box 317
Skagway, Alaska 99840

Feb. 6, 1976

Rep. Mike Miller
Alaska State Legislature
Juneau, Alaska
Dear Mike:

Thank you for introducing the bill to make the Juneau Wetlands a game refuge. I think this is a much needed piece of legislation, and I sincerely hope you can get it through without having all the real protection amended out of it. It is a pity that so many people genuinely can not see the value of keeping natural pieces of our land and water--it helps preserve us as well as the wildlife, if they only knew.

Sincerely,



Barbara D. Kalen

Virginia E. Kline

MAYOR OF JUNEAU

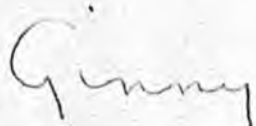
R.R. 5 Box 5916. JUNEAU, ALASKA 99803

House Resource Committee:

copy of testimony presented at 1/30/76 hearing

The present City & Borough Assembly has not taken a stand on this bill, but 2 years ago we did go on record in favor of public ownership of the Mendenhall wetlands. HB 521, creating the Mendenhall Flats State Game Refuge, appears to be a step in the direction of achieving that goal, although this bill speaks just to State lands. Creamers Dairy and Potters Marsh are two examples of areas where the State purchased private land using both fish & game fund and general fund monies to match Pittman-Robertson monies. The State might want to continue this practice of acquisition in the Juneau area. The City has already allocated open space funds, some of which could be used in such a project.

We do, however, have a couple of hesitations about this bill, most of which appear to be covered in the proposed committee substitute. The concerns are airport expansion, a site for a second bridge crossing of the Channel, and possible Channel dredging sometime in the future. The last concern is some kind of port/harbor facility at the end of Mendenhall Peninsula. Because there are no wetlands in that area, the northwest corner easily could be moved slightly eastward to exclude the potential harbor area.



Virginia Kline



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

DATE: February 6, 1976

FILE NO.

SUBJECT: CS for Sponsor Substitute for
House Bill No. 521

Representative Nels A. Anderson, Jr.
Chairman, House Resources Committee
Alaska State Legislature
State Capitol - Pouch V
Juneau, Alaska 99811

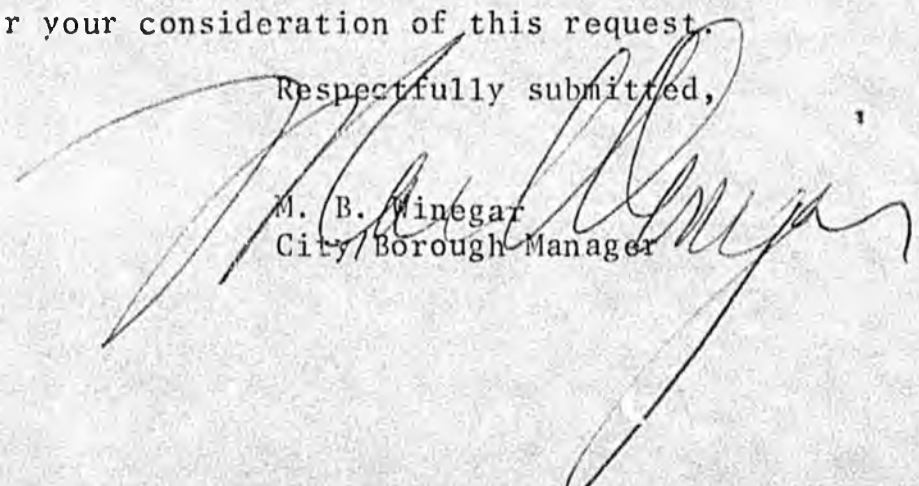
Dear Representative Anderson:

I appreciate the opportunity to appear before the Committee in order to make a statement on behalf of the Assembly of the City and Borough of Juneau regarding CSSHB 521. The Assembly wishes to assure you that it supports the concept of a game refuge in the general area described in the Bill. Nevertheless, the Assembly does have concerns about transportation corridors, airport expansion, Channel dredging, and dock and port development which might conflict with the planned use. Along this line, the Assembly appreciates the Committee's demonstrated willingness to modify the language of the Bill to speak to these and other expressed needs of the citizens of the City-Borough.

Specifically, the Assembly and the Planning Commission really have had very little opportunity to review the specific language in the Committee Substitute. Further, the Assembly is not sure that all problems have yet been identified and dealt with. As a result, the Assembly would appreciate the Committee's deferring further action on the Bill until February 20 or as soon thereafter as is possible. This will be subsequent to the next regular Assembly meeting. In the interim, the Assembly intends to thoroughly review the Committee Substitute Bill and then will be in a position to make considered recommendations to you.

Thank you for your consideration of this request.

Respectfully submitted,


M. B. Winegar
City/Borough Manager

MBW/kh

ALASKA CONSERVATION SOCIETY
Box 80192
College, Alaska 99701

Honorable Nels Anderson
Chairman, House Resources Committee
Alaska State House of Representatives
Juneau, Alaska

Chairman Anderson:

For a number of years the Alaska Conservation Society has followed with interest the problem of the management of the wetlands of the Men-denhall Estuary. As early as 1966, the Department of Fish and Game prepared an assessment of the significant scenic, recreational, and habitat features and requested consideration of the potential values of this area to the community and the state.

This issue organized conservationists to launch a campaign to avert destruction by the proposed outer route of the Egan Expressway. The rise of the local "Stellar" society brought together persons of like concerns towards the campaign to protect this area. Attached you will find an original memo which initiated a ten year effort to obtain these lands in order to protect their values.

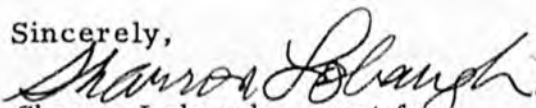
Objections to the outer route of the highway which would completely destroy the estuarine habitat could not be disputed by the highway department and consequently, the inner route was selected. Fill material was needed from this area for the highway which altered the character of these lands.

In spite of these alterations, it continues to be a major recreational area for the youth of Juneau drawing hundreds of duck hunters and bird watchers yearly. These developments have not yet altered the migratory and nesting habits of the various species of waterfowl. Hundreds of school children annually proceed across these lands each spring during "Sea Week" to experience these species first hand.

Ponds adjacent to the airport provide marvelous opportunities for pilots to delight their passengers with remarks such as "to the left you will see a pair of whistling swans."

Alaskans all should be proud to set aside such an outstanding segment of State Lands for purposes of a Refuge. We urge your favorable consideration of House Bill 521.

Sincerely,


Sharon Lobaugh, agent for
Alaska Conservation Society

Senate Bill 521

As property owners living on land adjacent to the Mendenhall Wetlands (1/2 mile Mendenhall Peninsula Road), we are in favor of passage of Senate Bill 521. Many hours of unequalled recreation in the form of skiing, snow-shoeing, walking & bird-watching, mountain gazing have been had by our family. Our children are young and the wetlands provide an excellent place for a young family to enjoy this beautiful land. The future of this area is vital to us and the preservation of the wetlands insures that Juneau will remain a special place to live and raise a family.

Thank you,

Kathleen Hanna
Thomas R. Hanna

Feb 3, 1976

From: Rosemary Gute
Box 2, Juneau, Ak.

February 10, 1976

To: Nels Anderson, Chairman
House Resources Committee

Re: House Bill 521

Dear Mr. Anderson,

I attended the hearing on HB 521 on 2/3/76, but am unable to attend on 2/11/76, so would appreciate your entering this letter as testimony.

Having attended both the recent borough assembly and planning commission meetings and spoken with others in the community, it would appear that the majority are in favor of the concept of the bill, as am I.

The Department of Fish and Game seems to be the logical agency to handle the Wetlands as they have personnel trained and experienced in the area of waterfowl management.

HB 521 with its amendments appears to be an intelligent management solution for the Wetland area and I urge its passage.

Respectfully submitted,

Rosemary Gute

Preliminary Plan for Wildlife Management on the Mendenhall Wetlands

Introduction

For the last 30 years there has been a growing concern by Juneau residents for the destiny of the Mendenhall Wetlands. The concern has been the motivating factor for at least two lengthy reports dealing with management schemes. The reports are: A Preliminary Land Management Proposed for the Mendenhall River Wetlands, 1967 by Peter K. Shepard and Ronald J. Somerville, Alaska Department of Fish and Game; and Gastineau Channel Wetlands - Reconnaissance and Recommendation report for the City and Borough of Juneau, Alaska, 1972 by Environmental Concern, Inc. Both reports give detailed and ample documentation of the importance of the wetlands to the Juneau recreation scene. The focal point of both reports was that to achieve a desirable management scheme to preserve the remaining wetlands. Unfortunately wetland preservation is no closer to reality than it was in 1967. In fact both current and future development options for recreation has been greatly decreased by landfill, highway and dredging projects.

Wetland preservation was discussed during several public meetings with Borough officials. In various correspondence with State agencies it has been asked what type of management the Alaska Department of Fish and Game would initiate on the wetlands if they were to be preserved.

The purpose of this paper is to describe some of the wildlife management options which ADF&G would propose to initiate if the wetland integrity were assured. Hopefully the proposed plan will add impetus for wetland preservation while management options still exist.

Management

If the Mendenhall Wetlands was classified as a state wildlife refuge, the primary management emphasis will be placed on wildlife oriented recreation, both consumptive and nonconsumptive.

Waterfowl hunting on the wetlands has traditionally been a major use of the area. It is calculated (ADF&G Reports) that hunters harvest between two and four thousand ducks and seventy-five to one hundred and fifty geese annually, making the Mendenhall Wetlands one of the important hunting areas in the state. The Mendenhall Wetlands usually ranks one or two in the state ^{for} total hunting effort. It was estimated in 1967 that duck and goose usage of the area exceeded 1,000,000 use days annually. However, since 1967 waterfowl usage and thus hunting success in the area has decreased due to habitat destruction by commercial development and increasing hunter pressure on the reduced hunting areas. Interviews with hunters in recent years indicate that most harvest occurs during the very early days of the waterfowl season. Apparently hunting pressure is so great that many of the birds are forced out of the area. Other birds migrating through find less habitat to utilize and constant hunter harassment which is not conducive to prolonged bird use.

Management of the Mendenhall Wetlands for better waterfowl hunting and viewing could consist of the following:

1. Increasing the attractiveness of the area to waterfowl, thereby providing more waterfowl for both hunters and non-hunters.

As mentioned earlier a large reduction in habitat due to commercial development has occurred on the wetlands. To

rectify this situation the waterfowl carrying capacity of the remaining wetlands will be improved. However, attracting more ducks to the wetlands must be done in such a manner so that they are discouraged from utilizing areas immediately adjacent to the airport, which could increase incidents of bird-aircraft collisions.

Establishment of shallow water impoundments in Fish Creek, Switzer Creek and the south Gastineau Channel area would improve the wetlands capacity for waterfowl. Impoundments would be established by either blasting or bulldozer-dragline work.

Possibilities for increasing goose use such as controlled burning would be investigated and initiated if deemed appropriate.

2. Redistributing hunting pressure by establishing open and closed areas. It has become apparent that hunting pressure on the wetlands has grown to such proportions that hunting management is needed to improve both quality and success of the hunt. It has been observed that the numbers of ducks and geese utilizing the wetlands decline rapidly after the season opens September 1. The main reason for the decline is a lack of adequate feeding-resting areas where birds can remain unmolested from hunting pressure. In conjunction with habitat management listed above it is proposed that all of the wetlands be closed to hunting during a portion of each week during the hunting season. Another proposal could be the closure of half the area for 3-4 day periods while the other half is open with weekly alternating openings and closures. It is believed that by

eliminating hunting pressure in certain areas for varying periods more waterfowl will be encouraged to stay in the area for longer periods. Also, with a weekly opening to hunting "opening day success" will continue throughout much of the waterfowl season.

Other possibilities for management do exist: It has been noted, from past hunter field checks, that 30 percent of the waterfowl hunters on the wetlands are under 16 years of age. Possibly a management proposal should incorporate special provisions for the young hunter such as one day of hunting for kids only. Another possibility would be construction of permanent duck blinds for hunting and general observation purposes. Decisions on what management techniques ADF&G should use would be made after a series of public hearings had been held.

Potential management options for "nonconsumptive" use of wildlife on the wetlands are numerous and actual decisions can be made following public input. Two proposals for consideration are:

1. Observation and parking areas - The new Egan Highway has one road pulloff in the Switzer Creek area. Another small road pulloff should be constructed between the airport and Sunny Point. Both areas are adjacent to both spring and fall waterfowl resting areas and these would be obvious sites for observation areas. Both areas should have signs erected describing the importance of the wetlands and listing species of birds which can readily be observed.

2. Interpretive trail system -- An interpretive self guiding trail system should be established on the wetlands. Possibly the area adjacent to the airport could be the starting point for a trail which would guide school children and interested visitors through the various wetland habitat types. At appropriate spots along the trail, signs could be erected which would explain items of interest and the importance of the wetlands.

Other "nonconsumptive uses" can be accommodated. Public meetings will gauge the local interest and desires for such activities.

Summary

Several management options for the Mendenhall Wetlands are available. However, all are based on the requirement that the wetland system suffer no further reductions from commercial development. Once this is assured management of this valuable area can begin.

Warren Ballard
Game Biologist
Division of Game

HB

564

File

*Rep Anderson
Chairman, Resources*

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5 - JUNEAU 99811

January 26, 1976

HB 564

The Honorable Charles H. Parr,
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Parr:

I appreciate what you are trying to accomplish in your bill providing for permits and fees for the construction of shore facilities associated with off-shore natural resource extraction. If industry is not going to pay its way, it is only right for them to equalize the cost. However, I do not feel it should be credited against future taxes. Governments have to live in the long run as well as the short run. The administration does not favor that portion of the bill.

We do like the concept of the bill but feel that portion should be changed.

Sincerely,

Sterling Gallagher
Sterling Gallagher
Commissioner

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

PPVCH 5 - JUNEAU 99811

February 4, 1976

Honorable Nels Anderson
Chairman
House Resources Committee
Alaska State Legislature
State Capitol Building
Juneau, AK 99811

Re: House Bill No. 564

Dear Mr. Anderson:

House Bill No. 564, an Act providing for permits and fees for the construction of shore facilities associated with off-shore natural resources extraction was introduced in the House on January 14, 1976 and was referred to the House Resources and Finance Committees.

For the consideration of the House Resources Committee, I am enclosing a copy of a memorandum dated January 26, 1976 from Thomas K. Williams, Director, Petroleum Revenue Division, Department of Revenue, Anchorage relating to problems of administration of the proposed legislation.

If you or any members of the House Resources Committee have any questions on the material submitted, please telephone the writer at 465-2397 and I will contact Mr. Williams in Anchorage for further information.

Very truly yours,



R. D. Stevenson
Special Assistant

cc: The Honorable Hugh Malone
Chairman
House Finance Committee

The Honorable Charles Parr
Prime Sponsor - HB 564

Thomas K. Williams
Director
Petroleum Revenue Division
Department of Revenue
Anchorage, Alaska

MEMORANDUM

State of Alaska

TO: R. D. Stevenson
Special Assistant
Department of Revenue
Juneau

DATE: January 26, 1976

FILE NO:

TELEPHONE NO:

FROM: Thomas K. Williams *TKW*
Director
Petroleum Revenue Division
Department of Revenue

SUBJECT: House Bill No. 564

Offered in response to your request are the following observations on HB 564:

1. The primary effect on Treasury would be a pre-payment into the General Fund of State tax revenues from the extraction of offshore natural resources.
2. The bill invites litigation between impacted local governments and the State over the local government's uncompensated service expenses.
3. The bill fails to specify whether interest earned on the fee for the permit would be credited against State or local taxes.
4. The bill fails to consider what happens if a Permanent Fund is established and if some monies going into that Fund were from State taxes (e.g., AS 43.56) against which the fee for the permit could be credited: would part of the permit fee go into that Fund when paid, or would it go in as the credit was taken against those State taxes?

TKW:lgh

HB

566



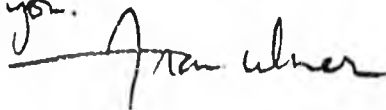
STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

Nels:

These changes in the critical habitat bills are a result of public comments received by the Dept of Fish & Game.

If and when the committee prepares committee substitutes for these bills, please consider incorporating these changes. Most are quite important as they represent boundary corrections.

Thank you.

Fran Ulmer

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

SUPPORT BUILDING
JUNEAU 99801

April 15, 1976

The Honorable Kay Poland
Chairman; Senate Resources Committee
State Capitol Building
Pouch V
Juneau, Alaska 99811

Dear Mrs. Poland:

At the request of the Senate Resources Committee, the Alaska Department of Fish and Game held a public hearing on February 24, 1976 at 7:30p.m. at the Homer High School to consider HB566 "An Act Creating the Kamishak Bay -Chinitna Bay Critical Habitat Area".

At least one hundred and eight persons attended, of whom eight made statements at the hearing. Five persons spoke in favor of the designation while three questioned its necessity and were opposed. Petroleum industry representatives present at the meeting made no comment.

While we would agree with those who voiced opposition to critical Habitat designation, that this will not give the State of Alaska any more authority over the lands in question, we feel it very appropriate that the policy directions for managing these highly productive lands be established through the legislative (i.e. public) process. Further we feel it appropriate that a significant measure of management authority in such areas reside with the Alaska Department of Fish and Game.

In the process of review of HB 566 for the Senate Resources Committee we have discovered several errors and omissions in the present bill. These will be incorporated in a substitute bill which will be submitted through the Governor's office in the near future.

29025

We thank you for your interest in this legislation. The public hearings requested by your committee have been a valuable aid in refining the Department's Critical Habitat nominations.

Sincerely,



Robert E. LeResche
Chief
Habitat Protection Section

cc: Chancy Croft
Fran Ulmer
Nels Anderson

HB

567

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

*Bill
HB 567*

SUBPORT BUILDING
JUNEAU 99801

March 31, 1976

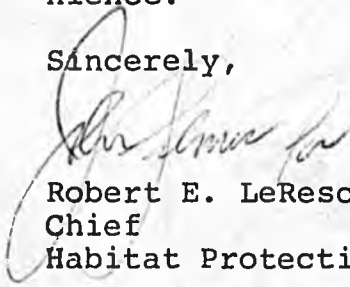
The Honorable Nels Anderson
Chairman, House Resources Committee
Alaska State Legislature
Juneau, Alaska 99801

Dear Mr. Anderson:

Following our discussion at your committee, I have drafted the attached resolution, which your committee may wish to consider for protection of the calving grounds of the Arctic caribou herd. As we discussed, because the land in question is part of Naval Petroleum Reserve Number 4, this resolution might carry as much weight as official designation of the area as Critical Habitat. I am sure we all agree that it is extremely important to protect the most critical area used annually by the Arctic caribou herd, and I hope this resolution provides the cleanest, most efficient way to do this.

I would be happy to discuss this with you at your convenience.

Sincerely,


Robert E. LeResche
Chief
Habitat Protection Section

cc: J. Brooks

ALASKA STATE LEGISLATURE

RESOLUTION URGING FEDERAL AGENCIES TO TAKE SPECIAL CARE OF THE ARCTIC CARIBOU HERD CALVING GROUNDS.

WHEREAS, the Western Arctic Caribou Herd is the largest caribou herd in Alaska;

WHEREAS, this caribou herd is an extremely important resource to the people of Alaska for subsistence and other purposes;

WHEREAS, the calving grounds of a caribou herd are the most important and irreplaceable habitat used by the herd, and are essential to the herds existance;

WHEREAS, increased exploration of Naval Petroleum Reserve number 4 presents a potential threat to this critical habitat, if full cognizance is not taken of the needs of the caribou and their habitat;

NOW, THEREFORE, BE IT RESOLVED, that the Alaska State Legislature urges the Department of Defense and the Department of Interior to take special care to assure that lands comprising the calving grounds of the Arctic caribou herd are properly protected during any exploration or development of NPR 4 and, further, that these federal agencies assure that any operations occuring in this calving ground area are fully reviewed by and coordinated with the Alaska Department of Fish and Game, and any concerned local governments.