

1143

SRES

SCR 41

-

HB

636

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13

13

attendance

| name | address |
|-----------------------|---|
| Ken Pravyhouse | FAA - AAL-4C 701 "C" St Box 14 Anchorage 99513 |
| Bob Dampsey | Fairbanks citizen of comm. SJD 1st Ave J'ORS AK. 99701 |
| Kelly Waller | TANANA Chiefs Conf. 1st & Hall St Fairbanks, AK 99701 |
| WILHELM L. Fincher | PRINTERS L.L. #1140 1818 2nd No Lights Bldg. |
| RUDY J. TROSCHEK | |
| Dick Kloop | 2510 Arctic Blvd. City - 2405302 |
| WM R. WOOD | MAYOR OF FAIRBANKS 70 FIDC 619 E. EIGHTH AVE FAIRBANKS, ALASKA, 99701 PHONE: 452-5400 |
| Don Lyon | Overall Economic Development Program Mon-Sun SR 5011 Wasilla AK 99 501 ⁶²³ |
| Harold Pomeroy | 4048 Wright St Anchorage 99504 |
| James G. Dye | 2301 LOUISAC Arch AK 99509 |
| LEE E. FISHER, C.P.A. | 450 W. 7th AVE ANCHORAGE |
| Patrick J. Smutz | HRDI - 213 W. 6th Arch. AK. 99501 |
| Jennie Day Peterson | Public Employees Local 71 PO. Box 4-241 ANCH 99509 |
| Ken Home | 225 Cordova, Bldg B, #209 |

Senatz Resources hearing - SCR 41
attendance

| name | address | |
|-------------------|------------------------------------|-----------------|
| Martin Hoskins | P.O. Box 288 | Anchorage 99510 |
| DAVE HARBOUR | SRA BOX 62-R | Anch. 99507 |
| Frank N. Van Zant | POUCH 6607 H-280 | Anch 99502 |
| Paul A. Dunham | Machinists Local 601 825 E. 8th | Anch 99501 |
| Ken Showalter | POUCH 642 | anch. 99502 |
| MYRON B IGTANLOC | 2201 West 48th Ave. | ANCH. 99503 |

Testimony of

K. E. Showalter, Director Alaska Government Affairs

SOHIO ALASKA PETROLEUM COMPANY

Before the Senate Resources Committee

Anchorage, Alaska

February 15, 1980

Mr. Chairman and Committee members:

I am K. E. Showalter, Director Alaska Government Affairs for Sohio Alaska Petroleum Company.

Thank you for this opportunity to comment on Senate Concurrent Resolution No. 41. It is very encouraging to Sohio to read a proposed resolution such as this that actually is aimed at improving the business climate in Alaska. We heartily endorse your efforts.

We agree totally with the whereas clauses in this resolution. After studying the resolve clauses we had the impression that this resolution was only aimed at future businesses and did not seem to apply to the oil and gas exploration, production and transportation industries. Perhaps this was an oversight in your zeal to encourage new industries and that is understandable.

On the assumption that it was in fact an oversight, we have taken the liberty of adding several phrases and deleting a few words that we believe will improve the resolution and make it more all encompassing.

I have asked that a copy of our re-written version of SCR 41 be passed to each of you. You will note that we have simply re-written it as we are recommending, rather than offering several amendments.

With your indulgence I will go over our suggested changes and comment briefly on them.

- (1) We have added to the end of resolve #1 the phrase "by building on its present economic base and encouraging new activities that are economically feasible." This will make it clear that you are encouraging existing businesses as well as new ones and indicates also that you want viable projects.

- (2) The second resolve seemed to indicate that any group of local citizens, no matter how small, could stop a project that was of overriding importance to statewide concern. We have struck the words "wanted by" and replaced them with the phrase "undertaken after careful consideration of the views of". This assures that local concerns will be carefully considered in the balanced decision that a state administrator must make.

- (3) We have added the phrase "adds to and where possible" at the beginning of this clause. We are all in favor of diversifying the State's revenues but believe that the resolution should allow for encouragement of those developments that may not, in fact, diversify revenues, such as oil and gas development.

- (5) We have added after "effect" the phrase "where applicable and economically feasible". As this clause was originally written it seemed to preclude developments that did not enhance power and energy availability and there may be many desirable developments that will be not users of power or energy. Our rewrite is not all that good and perhaps the committee can think of a better way to express the thought.

- (6) We are overwhelmingly in favor of resolve #6.
- (7) At the end of resolve #7 we have added the phrase "where economically feasible and in the state's best interest." We believe there could be many circumstances where a requirement to process all of the state's royalty share of a resource within the state would in fact prevent the development of the resource. No doubt there will be many others where it is possible.

Further resolves:

- (1) The words "both existing and potential" have been added after the word "industries" to make it clear that expansion of existing industries is recognized as responsible economic development.
- (2) After "aid" we have added the words "present and" to again include present industries. At the end after "evaluation" we have added a clarifying phrase "of new projects."
- (3) We suggest that you strike the words "the many" and replace with the word "any" so as to make it all inclusive. After Federal we have added "and the state" to recognize that realistically there are many constraints to development in state laws and regulations and, contrary to the rhetoric, they are being added to on a daily basis.
- (4) The wording has been changed to again include present and future basic industries.

(5) Here, after "areas" we have added "of the country" to indicate that the prime requirement is to compete within the U.S. where, from a practical political standpoint most markets for Alaska's resources will exist. After "tax incentives to" we have added "retain current industries and"; also we have replaced "various" with "future". This resolve is most important and has seldom been recognized here in the past. It would be a very positive signal to investors.

(7) We understand the objective of the "fixed price" language but are very apprehensive that this could result in unnecessary huge losses of revenue to the state. Our experience would indicate that no one has a good enough crystal ball to make long term, fixed price contracts that work fairly for both parties over the years. We suggest the word fixed be replaced by the phrase "competitive or most favored nation." This will signal that the state wants to be fair and will not let their buyer be undercut by a competitor who is getting a better price. It will also show that you want a reasonable price for your resources and will not subsidize uneconomic development.

Sohio applauds your efforts in fashioning this resolution. We believe our suggested changes retain the basic purpose and thrust while making it clear that current industries as well as new ones are to be encouraged.

We urge the passage of SCR 41 with amendments.

Thank you.

SCR

44

May 5, 1980

Bill-

SCR 44 is on today's calendar and it deals with the Eureka Airstrip. When the state discovered that it did not hold full title to the land at the airstrip, it ceased maintaining and operating the airstrip. This resolution calls for the Governor to direct DOT to resume maintenance and do whatever is necessary to acquire full title to the land so the state can permanently run the airstrip.

Eureka, located on Mile 128 of the Glenn Highway, is apparently the only airfield in the general vicinity and is needed for safe aviation due to increasing air traffic and the unpredictability of weather in the area.

At the Resources hearings on the bill, DOT sent over the only witness and he took no position on the bill. Otherwise, there was no opposition to the resolution.

The Department estimates that were it to carry out this directive, the costs for maintenance would be \$15,000 the first year and \$10,000 for each succeeding year. Land acquisition costs would be approx. \$100,000.

Jens



Official Business

Alaska State Legislature

Senate

Committee on Resources

April 18, 1980

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Senate Resource Committee Members
FROM: Jens Zehbe, Staff Member
REGARDING: Senate Concurrent Resolution 44

This resolution calls for the Governor to direct the Department of Transportation to resume maintenance of the Eureka Airstrip located on Mile 128 of the Glenn Highway. Due to the increase of air traffic along the the Chickaloon Pass corridor and the unpredictability of weather conditions in the area, an airstrip is necessary for safe aviation in the area.

It further requests that the Department do whatever is legally necessary to acquire title to land at Eureka so it can permanently run the airstrip. The State was previously charged with operation of the airstrip until it was discovered that it did not hold title to all the land at the site. Maintenance operations were then stopped at Eureka.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SCR 44

Title Relating to the Maintenance of the Eureka Airstrip

Requested by Senator Sackett

Date 2/28/80

II. FISCAL DETAIL

Agency Affected Dept. of Transportation & Public Facilities

Program Category Affected Transportation

BRU, Program, or Subprogram(s) Affected SUMMARY

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|-------|-------|--------|--------|--------|--------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | 15.0 | * 10.0 | * 10.0 | * 10.0 | * 10.0 |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | 100.0 | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | | 15.0 | * 10.0 | 10.0 | * 10.0 | * 10.0 |
| * PLUS INFLATION | | | | | | |

FUNDING (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|-----------------------------|-------|-------|--------|--------|--------|--------|
| GENERAL FUND | 100.0 | 15.0 | * 10.0 | * 10.0 | * 10.0 | * 10.0 |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |

POSITIONS

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|-----------|-------|-------|-------|-------|-------|-------|
| FULL TIME | | 0 | 0 | 0 | 0 | 0 |
| PART TIME | | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | | 0 | 0 | 0 | 0 | 0 |

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

SEE PAGES 2 & 3

IV. DATE 2/28/80

PREPARED BY PLD Ron Lind, Deputy Commissioner
AGENCY Dept. of Transportation & Public Facilities
PHONE 465-3900

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

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SCR No. 44
 Title Relating to the Maintenance of the Eureka Airstrip
 Requested by Senator Sackett Date 2/19/80

II. FISCAL DETAIL

Agency Affected _____
 Program Category Affected _____
 BRU, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | 100.0 | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |

TOTAL

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|-------|--|--|--|--|--|
| GENERAL FUND | 100.0 | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |
| | | | | | | |

POSITIONS

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

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

To purchase 2 1/2 to 3 acres of private land constituting a portion of the basic airstrip to acquire roughly 20 acres of land from BIM plus any related improvements adjacent to the existing airstrip.

IV. DATE 2/25/80 PREPARED BY Jack Boline/Jonathan W. Scribner
 AGENCY R/W & Lands
 PHONE 364-2121 Ext. 245
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SCR 44
 Title Relating to the maintenance of the Eureka Airstrip
 Requested by Senator Sackett (Alphie Morris) Date 2/20/80

II. FISCAL DETAIL

Agency Affected Department of Transportation & Public Facilities
 Program Category Affected Maintenance and Operations Southcentral Region
 BRU, Program, or Subprogram(s) Affected Aviation

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|-------|-------|--------|--------|--------|--------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | 15.0 | * 10.0 | * 10.0 | * 10.0 | * 10.0 |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | | 15.0 | * 10.0 | * 10.0 | * 10.0 | * 10.0 |
| * PLUS INFLATION | | | | | | |

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|--|------|--------|--------|--------|--------|
| GENERAL FUND | | 15.0 | * 10.0 | * 10.0 | * 10.0 | * 10.0 |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |

POSITIONS

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

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

The above figures are based on estimates for contract maintenance. The first year figure is higher to compensate for preparation work required. The following years would then be normal routine maintenance, which may be increased by normal inflation rate. Since this would be contracted work, no additional positions would be required.

THIS FISCAL NOTE ADDRESSES MAINTENANCE ONLY - LAND TITLE AND CONSTRUCTION WILL BE RESPONDED TO BY DESIGN AND CONSTRUCTION DIVISION OF THIS DEPARTMENT.

Patrick P. Ryan

IV. DATE February 26, 1980 PREPARED BY Jack Morrow
 AGENCY Dept. of Transportation & Pub. Fac.
 PHONE 835-4322

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

Synopsis-- Senate Concurrent Resolution 44

By the Rules Comm. Ly request of the Interim Transportation Comm.
Relating to the maintenance of the Eureka Airstrip.

This resolution calls for the Governor to direct the DOT to resume maintenance of the Eureka Airstrip located on mile 128 of the Glenn Highway. It also requests that the DOT do whatever is legally necessary to acquire title to land at Eureka so it can permanently run the airstrip. The state used to operate the airstrip until it discovered that it did not own the entire thing. It then ceased maintenance at Eureka.

HB

118

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FOREST, LAND AND WATER MANAGEMENT

333 EASTHAVEN
ANCHORAGE, ALASKA 99501

February 19, 1980

J.P. Tanager, President
Alaska Miners Association
P.O. Box 1211
Juneau, AK 99802

Dear Mr. Tanager:

On January 27, 1980, I met with you to briefly discuss HB 118 "An act relating to maintenance of stream flows and levels of water." At that time we discussed differences between this bill and a related bill considered by the 1977 Legislature.

While HB 118 would streamline a presently cumbersome state permitting and stipulation process for addressing stream flows for fisheries and navigation concerns, events at the federal level over the past year have increased the urgency for such legislation in Alaska as a matter of protecting state's rights. This urgency is related to a June 1979 Solicitor's Opinion regarding federal water rights of Department of Interior agencies. While the opinion clarified Interior's stance on reserved water rights for reserved Interior lands such as parks, monuments and wildlife refuges, it developed a heretofore unknown concept of non-reserved federal water rights. This concept is without previous judicial or statutory precedent in federal courts or congressional legislation.

To exercise the non-reserved rights, the federal government would first apply to the state under appropriate state water laws. For uses involving a diversion or withdrawal this is not a problem in Alaska since we can handle such claims under existing state law. In fact, since I talked with you we have received 50 water right applications from the U.S. Forest Service for water supplies for campground and recreational facilities in the Chugach National Forest. We can handle such applications in an identical manner as we would handle water rights for industrial facilities. However, we are concerned where we cannot handle requests from the federal government for adjudication of rights for non-consumptive instream flow purposes for fisheries and navigation concerns. In such cases where a use is not recognized under state law the Secretary and Solicitor have stated that the agency would go to federal court to have the right established or decreed. Such an action would remove the federal government from state water law and jurisdiction where we must consider multiple purposes of state waters. Furthermore, such actions would be brought in federal court outside the State of Alaska, thereby making it difficult

I. P. Tangea, President

2

February 19, 1980

and expansive to interface through the legal staff of the Department of Law, technical staff of the Department of Natural Resources and legal or technical staff of water users that may be adversely affected.

We feel we have an administrative option through enactment of HR 118 to bring the federal government under state administrative procedures and require their needs and claims to be considered on an equal basis with other public and private water users. We are interested in any comments the Alaska Miners Association may have on this issue and hope we may work together toward enactment of this legislation.

As promised during our January discussion I am providing the following documents for additional background:

- 1) Press release and opinion entitled "Federal Water Rights of the National Park Service, Fish and Wildlife Service, Bureau of Reclamation and the Bureau of Land Management" of June 1979.
- 2) "Response to the Solicitor's Opinion on Federal Water Rights" by the Western States Water Council, October 25, 1979.
- 3) DNK staff report regarding December 1979 meeting between Andrus and Western Governors on the Solicitor's Opinion in Salt Lake City.

Under separate cover you should already have received a November 1979 DNK open-file report entitled Federal Lands in Alaska and Their Reserved Water Rights: Discussions, Policies, and a Partial Inventory.

I hope to discuss this issue with you in the near future. If you have any comments or questions please do not hesitate to contact me at 907-279-5577.

Sincerely,

Robert V. Petrus, Chief
Water Management

Mr. [unclear] [unclear]
[unclear] [unclear]

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THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSHB 118 No. 1
Title "An Act relating to rivers, lakes, streams and other bodies of water
Requested by in the state; and providing for an effective date."

II. FISCAL DETAIL
Agency Affected Department of Fish and Game
Program Category Affected Natural Resources Management & Environmental Conservation
BRU, Program, or Subprogram(s) Affected Habitat Enhancement
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| 800 MISCELLANEOUS | | 125.0 | -0- | | | |
| TOTAL | | 125.0 | -0- | | | |

FUNDING (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|-----------------------------|-------|-------|-------|-------|-------|-------|
| GENERAL FUND | | 125.0 | -0- | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |

POSITIONS

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|-----------|-------|-------|-------|-------|-------|-------|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

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

Oral Freeman
Oral Freeman, Vice Chairman
House Finance Committee
May 1, 1980

IV. DATE _____ PREPARED BY _____
AGENCY _____
OR: Legislative Finance AGENCY FISCAL
Budget and Management FUNDING
Prime Sponsor (First Legislator Named)

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSHB 118 No. 1
Title "An Act relating to rivers, lakes, streams and other bodies of water
Requested by in the state; and providing for an effective date."

II. FISCAL DETAIL
Agency Affected Department of Natural Resources
Program Category Affected Management of Forest, Land & Water Use Management
BRU, Program, or Subprogram(s) Affected Water Management; Water Use Management
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| 800 MISCELLANEOUS | | 125.0 | -0- | | | |
| TOTAL | | 125.0 | -0- | | | |

FUNDING (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|-----------------------------|-------|-------|-------|-------|-------|-------|
| GENERAL FUND | | 125.0 | -0- | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |

POSITIONS

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|-----------|-------|-------|-------|-------|-------|-------|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

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

Oral Freeman
Oral Freeman, Vice Chairman
House Finance Committee
May 1, 1980

IV. DATE _____ PREPARED BY _____
AGENCY _____
OR: Legislative Finance AGENCY FISCAL
Budget and Management FUNDING
Prime Sponsor (First Legislator Named)

*Passed Out Unchanged
by House Resources*

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill Resolution No. CSHB 118
 Title An Act Relating to the Maintenance of Stream Flows and Levels of Water
 Requested by Fish and Game Date April 11, 1980

II. FISCAL DET. II

Agency Affected Department of Fish and Game
 Program Category Affected Natural Resource Management and Environmental Conservation
 BRU, Program, or Subprogram(s) Affected Habitat Protection BRU
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|-------------------------|------------|--------------|--------------|------------|------------|------------|
| 100 PERSONAL SERVICES | -0- | 107.8 | 121.0 | -0- | -0- | -0- |
| 200 TRAVEL | -0- | 11.0 | 13.4 | -0- | -0- | -0- |
| 300 CONTRACTUAL | -0- | 60.4 | 66.4 | -0- | -0- | -0- |
| 400 COMMODITIES | -0- | 5.0 | 5.5 | -0- | -0- | -0- |
| 500 EQUIPMENT | -0- | 3.3 | -0- | -0- | -0- | -0- |
| 600 LAND & STRUCTURES | -0- | -0- | -0- | -0- | -0- | -0- |
| 700 GRANTS, CLAIMS, ETC | -0- | -0- | -0- | -0- | -0- | -0- |
| TOTAL | -0- | 187.5 | 206.3 | -0- | -0- | -0- |

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |

POSITIONS

| | | | | | |
|-----------|--|---|---|--|--|
| FULL TIME | | 1 | 1 | | |
| PART TIME | | 4 | 4 | | |
| TEMPORARY | | 0 | 0 | | |

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

An amendment to HB 118, now incorporated as CSHB118, would require the Department of Fish and Game to specify by July 31, 1982, the "various rivers, lakes and streams or parts of them that are important for the spawning, rearing, or migration of anadromous fish." The expenditures presented in this fiscal note are in response to that amendment. Funds represented herein would allow the Department to inventory the anadromous streams of the State, provide for public review and comment on the inventory in accordance with the provisions of the Alaska Administrative Procedures Act, and present the findings of the inventory and public review process in documents which are readily available to the public. (continued)

IV. DATE April 11, 1980 PREPARED BY Richard Logan
 AGENCY Fish and Game
 PHONE 465-4105
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

III. ANALYSIS (Continued)

Line 100 expenditures under this fiscal note would provide for the employment of one permanent full-time Habitat Biologist III (Range 18), three permanent seasonal Fisheries Biologist II positions (Range 16), and one permanent seasonal Clerk Typist III position (Range 8). An inventory of the type being required will necessitate considerable travel to allow for on-the-ground accumulation and verification of information on fish occurrence. This travel will occur by way of commercial transportation (Line 200 expenditures) and charter of aircraft service from private industry (Line 300 expenditures). Per diem costs associated with travel and field activities is covered under Line 200. Line 300 expenditures also cover such fixed costs as rental and typewriter leasing and maintenance, and further provide for costs associated with printing and duplication of reports, advertising for public hearing or meetings, and telephone services. Cartographic and office supplies and purchase of publications associated with Alaskan fish science are costs considered in Line 400 expenditures. Line 500 funds will be put toward purchase of chairs, desks, tables, file cabinets and drafting equipment.

Maintenance of Stream Flows and Levels of Water

HB 118

1. Currently, there is no provision in law which will guarantee a perpetual supply of naturally occurring (instream) water for broad public purposes, including the maintenance and propagation of fish and wildlife, recreation, navigation, and sanitary/water quality uses.
2. It is important to understand the relationship of current administrative procedures to the new opportunities afforded by HB 118. Under current procedures, as far as they relate to fish and wildlife management, the Department of Fish and Game is required by statute to comment on all water right applications made to the Department of Natural Resources. In so doing, ADF&G identifies its concerns with the application insofar as it might affect the maintenance of sustained yields of fish and wildlife. To this end, ADF&G either recommends approval of the application without modification, recommends approval contingent upon the incorporation of specified conditions in the water right, or recommends denial of the application. DNR then uses these comments as one of eight factors in determining whether a permit should be issued.

The current procedure allows the opportunity to administratively accommodate fish and wildlife needs; a "reservation" is not possible, but appropriations can be made with fish and wildlife concerns in mind. However, there is no long-term guarantee of fish and wildlife protection.

3. The decision-making process involved in reviewing a request for a water appropriation is not changed by HB 118. The public purposes listed in #1 do not represent an infringement on the "beneficial use" foundation of the Alaska Water Use Act. That is, all uses previously eligible for a water right are still eligible, with no additions to the list of beneficial uses and no priority established other than what is currently in law. In making a decision regarding the issuance of a water right for an instream appropriation, then, the decision-making criteria already in law are still applicable. This involves a weighing of a number of existing statutory considerations by the Department of Natural Resources.
4. HB 118 does not establish use of water for fish and wildlife, and the other public purposes listed in #1, as a superior beneficial use. Therefore, existing procedures for the procurement of water rights by the public are not preempted and a right to water use for fish and wildlife and other uses must be secured on a case-by-case, competitive and "first come" basis in accordance with existing water law.

A previous bill gave priority right to fish and wildlife, recreation, navigation and sanitary/water quality uses. This was primary cause for the Legislature to oppose previous versions of the bill.

5. As a corollary to #2, the instream flow bill would not provide for an automatic blanket appropriation to the public purposes listed in #1. Rather, it is explicit in the bill that appropriate detail will be used in defining needs, and requests for appropriation will be as site and needs specific as reasonable. The following is quoted from the bill:

"The state or any political subdivision or agency of the state may apply to the commissioner to reserve sufficient water to maintain a specified instream flow or level of water at a specified point on a stream or body of water, or in a specified stretch of stream, throughout the year or for specified times of the year"
(emphasis added)

6. The right to make a request for an instream water appropriation for the public purposes listed in #1 is given to local governments, state agencies and other political subdivisions of the State. There is much concern that just the State can reserve flows and that others may wish to claim the same right, or that local perspectives on fish and wildlife, recreation, navigation, and sanitary/water quality will be ignored. Clearly, the State is not alone in the ability to reserve flows under the provisions of HB 118.
7. There may be some concern that the additive effect of several instream appropriations by several political subdivisions for the several public purposes may result in a situation wherein there exists no more water in a stream available for other uses.

This is not the case. Each appropriation cannot be considered an additive amount to another. Rather, the limiting factor is the largest appropriation required. For example, if one party wishes to reserve 3cfs, another 4cfs, another 6cfs and a final 8cfs, it is not correct to say that 21 cfs (i.e., the addition) will be reserved. It is true that each could be issued a right to each of its requests. However, only a maximum of 8cfs of actual water will be reserved because that amount is sufficient to cover all interests.

8. The instream flow bill would be beneficial to the State because it would bring the federal government under the procedural control of the State in instances of federal application for instream, nonreserved federal water rights. And, in so doing it would also represent a fiscal savings to the State by avoiding court settlement of appropriation issues. See attached letter from Brent Petrie to J. P. Tangen.
9. HB 118 is fully compatible with recommendations on instream flow legislation made by Mr. Frank Trelease, the framer of the Alaska Water Use Act. Mr. Trelease was contracted by DNR in 1976 to review the Water Use Act, its implementation and its adequacy in meeting state needs in light of the passage of years. One of the recommendations resulting from that review was for the enactment of an instream flow bill; the present HB 118 being substantially similar to the bill he proposed.

10. The reservation of water for the public purposes listed in #1 will result in incidental benefit to other types of activities. For example, some power generation plants are run by water driven turbines. Assurances that a perpetual supply of water will be available instream will allow this type of activity to continue. As another example, placer mining by suction dredge techniques requires, for economic efficiency, that water be in the stream channel. Absent that, expensive, heavy equipment would need to be employed to move the sediments. This in turn would have a greater impact on habitat resources than would suction dredge operations. An instream flow bill would prove beneficial to both suction dredge operators and habitat quality.

The National Council of State Legislators, staff assistants to the House Interim Committee on small hydroelectric projects, is on record as supporting amendment of HB 118 to include reservation of water options for power generation facilities, too. This would be a perfectly acceptable amendment.

11. The concept of a reservation of water for instream use--for the general public welfare--has foundation in the Alaska Constitution:

"Wherever occurring in the natural state, fish, wildlife and water are reserved to the people for common use." (Article VIII, Section 3) (emphasis added)

"Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed and maintained on the sustained yield principle, subject to preferences among beneficial uses." (Article VIII, Section 4)

"The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters for the maximum benefit of its people." (Article VIII, Section 2) (emphasis added)



Official Business

Alaska State Legislature

Senate

Committee on Resources

May 16, 1980

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Senate Resource Committee Members
FROM: Jens Zehbe, Staff Member
REGARDING: CSHB 118

This bill amends the Alaska Fish and Game Statutes relating to the protection of fish and game. The commissioner shall specify the rivers, lakes and streams that are important for the rearing of anadromous fish. The present statute deals only with their spawning and migrating areas.

The present statutes require a person or government agency to submit complete plans on any proposed construction as they relate to the protection of fish and game. This bill would empower the commissioner to reject the proposed plans if they are insufficient in protecting fish and game. There is also a hearing procedure instituted for the rejected applicant.

Title 46, Appropriation and Use of Water is amended by adding reservation of instream flows and levels of water as a beneficial use.

A new section is added entitled Reservation of Water. It specifies that the state, a political subdivision of the state, an agency of the United States or a person may apply for the right to reserve sufficient water to maintain a specified instream water flow or level of water in a part of the stream at all or specified times of the year. In applying, the applicant must meet certain criteria which are:

- 1) Protection of fish and wildlife habitat, migration and propagation.
- 2) A need for recreation and park purposes.
- 3) A need for navigation and transportation purposes.
- 4) A need for sanitary and water quality purposes.

The commissioner will issue a certificate reserving the water if:

- 1) It does not affect prior water reservation agreements.
- 2) Applicant has demonstrated a need for the reservation.
- 3) There is enough unappropriated water in the stream for the reservation.
- 4) The commissioner shall review each reservation every 10 years and may modify or revoke the reservation.

See attached fiscal note.

HJR 68 The Resources Committee has had HOUSE JOINT RESOLUTION NO. 68 (relating to the Alaska Power Authority and the incurring of revenue bond indebtedness of the Alaska Power Authority for the Golden Valley Electric Association waste heat power generation project near Fairbanks) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 68:

Relating to the Alaska Power Authority and the incurring of revenue bond indebtedness of the Alaska Power Authority for the Golden Valley Electric Association waste heat power generation project near Fairbanks and the Black Bear Lake hydroelectric project on Prince of Wales Island.

and that it do pass. Concurring: Miles (Co-Chairman), Osterback (Co-Chairman), Carney, Cotten, Fuller and Zharoff. Not concurring: Chatterton has no recommendation.

HJR 68 was referred to the Finance Committee.

HJR 81 The Resources Committee has had HOUSE JOINT RESOLUTION NO. 81 (relating to decontrol of the price of oil produced from Upper Cook Inlet fields) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 81 (same title) and that it do pass. Concurring: Miles (Co-Chairman), Osterback (Co-Chairman), Chatterton, Carney, Cotten, Fuller and Zharoff.

HJR 81 was referred to the Rules Committee for placement on the calendar.

HB 118 The Finance Committee has had HOUSE BILL NO. 118 (relating to the maintenance of stream flows and levels of water) under consideration and a majority of the committee recommends it be replaced with the Resources COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 118:

"An Act relating to rivers, lakes, streams and other bodies of water in the state; and providing for an effective date."

~~SB~~
~~#8~~

Need fiscal Note -

Provides for various groups to apply for the right to water.
Redefines water right

- Beneficial Uses
- 1) Fish & wildlife protection
 - 2) Water Quality, Dissimilate Waste
 - 3) Transportation purposes
 - 4) Recreation activities

Bill allow person to apply for legal right to get above

House added to anadromous fish streams

Gordon
dutch
243-3107
3137
U

HB

346



Official Business

Alaska State Legislature

Senate

Committee on Resources

May 7, 1980

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Senate Resource Committee Members
FROM: Jens Zehbe, Staff Member
REGARDING: CSSSHB 346

This bill amends the Alaska Fish and Game Statutes by the addition of a new section which states:

The Board of Fisheries by regulation, installs fishing markers to close off certain areas to commercial fishing yet sometimes fails to remove the old existing markers. This bill would expressly permit fishing in the area between the old and new markers until the Board removes the old markers.

There is no fiscal impact. (See attached fiscal note)



Alaska Native Brotherhood

Camp Number 2

510 West Willoughby Avenue
April 3, 1980

Juneau, Alaska 99801

The Honorable Bill Sumner
Alaska State Senate
Pouch V - M.S. 3100
Juneau, Alaska 99811

Dear Senator Sumner:

The Resources Committee has a House passed measure, namely CS HB 346, "an Act Relating to fishing area markers".

We would like to recommend passage, and offer consideration of an amendment to rectify a situation which we regard as a serious situation.

Presently, the markers for closed areas in the bays and other systems, are posted by order of the Board of Fisheries. The Department of Fish & Game has statutory authority to move the markers by emergency order. What has been occurring is when the stream guard sees that the salmon are moving outside of the closed markers, he arbitrarily goes to the shore and moves the markers out so that the salmon are in closed area. When the so-called "emergency" is over, the markers remain where they were moved to - and not back to where the Board has affixed the markers to be.

We recommend an amendment that would require an emergency order, with at least 24 hour notice -- and, that the markers be moved by the area biologist, not a stream guard -- and, that the markers be posted back to the original location. Or, prohibit movement of markers at all.

We thank you for this consideration.

Respectfully,

Robert Willard, Chairman
Legislative Affairs Committee

RW:in

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SS HB 346

Title: An Act relating to fishing area markers

Requested by Resources Committee

Date March 24, 1980

II. FISCAL DETAIL -

Agency Affected Department of Fish and Game

Program Category Affected Natural Resources Management

BRU, Program, or Subprogram(s) Affected Division of Commercial Fisheries

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND | -0- | -0- | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |
| | | | | | | |

POSITIONS

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

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

There would be no fiscal impact, provided the intent of the Legislature is to have the requirement applied to only the markers established by the Board of Fisheries by regulation or change in regulation, and does not apply to emergency orders or regulations used in season to manage the fisheries. Furthermore, it is recognized that the Department should do a better job when changing markers as required by the Board of Fisheries regulatory action.

IV. DATE March 25, 1980

PREPARED BY Russell H. Clark

AGENCY Department of Fish and Game

PHONE 465-4120

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Office of the Governor-Keith Specking

CSSSHB 346
on Monday's
Calendar

CSSSHB 346- by the House Resources Committee

An act relating to fishing area markers

This bill amends Alaska Fish and Game Statutes by the addition of a new section.

The Board of Fisheries by regulation, installs fishing markers to close off certain areas to commercial fishing yet sometimes fails to remove the old existing markers. This bill would allow fishing in the area between the old and new markers until the Board removes the old markers.



Official Business

Alaska State Legislature

Senate

Committee on Resources

Agenda

Pouch V
State Capitol
Juneau, Alaska 99811

Resources Committee Meeting
May 7, 1980
1:30 p.m.
Butrovich Room

- CSSSHB 346 Relating to fishing area markers
Testimony: Bob Willard- Alaska Native Brotherhood
Bob Clasby- Fish and Game
Mike Clemmons- Public Safety
Representative Zharoff- will attend the
meeting but doesn't necessarily want
to testify.
- SB 581 Sale of state land to holders of valid mining claims
Testimony: None scheduled
- SB 547 Preservation of green belts and open space
Testimony: None scheduled

HB

636



Official Business

Alaska State Legislature

Senate

Committee on Resources

April 18, 1980

Pouch V
State Capitol
Juneau, Alaska 99811

Passed

TO: Senate Resource Committee Members
FROM: Jens Zehbe, Staff Member
REGARDING: Committee Substitute for House Bill 636

This bill amends the Amusement and Sports section of the Alaska statutes by the addition of the following:

Any person in the water using an underwater breathing device may:

- 1) Display a 12"X 12" red flag with a white diagonal stripe.
- 2) Be affixed to the boat or on a float device and extend at least 3 feet from the water.

I shall:

- 3) Be at or near the divers point of submergence and the diver is to remain within 100 feet of the flag while underwater.
- 4) Warn boat operators above water and within sight of the flag, to stay 100 feet away from the flag and slow to no-wake speed or 5 miles per hour.

There is no fiscal impact.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 636
 Title "An Act requiring flags for divers."
 Requested by Rep. Parker Date 2/13/80

II. FISCAL DETAIL

Agency Affected Public Safety
 Program Category Affected _____
 BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | | 0 | 0 | 0 | | |

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |
| | | | | | | |

POSITIONS

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

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

No fiscal impact is projected.

IV. DATE February 13, 1980 PREPARED BY *M. Clemens*
Mike Clemens
 AGENCY Public Safety
 PHONE 465-4530
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

STATE OF ALASKA
Inter-Department Route Slip

TO:
MAIL STATION NUMBER _____

DEPARTMENT _____

ATTENTION Senator Sumner

- | | |
|--|--|
| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input checked="" type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input type="checkbox"/> Your Information |

Remarks:

FROM:
MAIL STATION NUMBER _____

DEPARTMENT _____

BY Don Bennett DATE 4/11

02-002 (REV.10/73)



Introduced: 1/29/80
Referred: Community &
Regional Affairs

1 IN THE HOUSE

BY PARKER AND MARTIN

2 HOUSE BILL NO. 636 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act ^{relating to} requiring flags for divers."

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

8 * Section 1. AS 05.25 is amended by adding a new section to read:

9 Sec. 05.25.012. DIVER'S FLAG. A person who is in the water using
10 an underwater breathing device ^{MAY} ~~shall~~ display a diver's flag constructed
11 of rigidly supported material at least 12 inches by 12 inches in area of
12 red background with a white diagonal stripe. This diver's flag ^{MAY} ~~shall~~ be
13 displayed on a boat or surface float and ^{MAY} ~~shall~~ extend a minimum distance
14 of three feet from the surface of the water. The diver's flag ^{MAY} ~~shall~~ be
15 placed at or near the point of submergence and constitutes a warning
16 that a diver is submerged and may be within 100 feet of the flag. A
17 diver shall remain within 100 feet of the diver's flag while at or near
18 the surface. A boat operator within sight of a diver's flag shall
19 proceed with caution, steering clear of the flag by a distance of 100
20 feet. Boats maneuvering within a 100-foot radius of a diver's flag
21 shall be slowed to no-wake speeds or five miles per hour, whichever is
22 necessary to maintain steerage in the seaway. A diver's flag shall be
23 displayed only while diving operations are underway.

24
25 *replace "shall" with "May"*
26
27
28
29



NEVAQUEST



АЛЯСКА КОМИТЕТ ИССЛЕДОВАТЬ КОРАБЛЕКРУШЕНИЕ ФРЕГАТА НЕВЫ

Dennis A. Cowals
P.O. Box 1044
Anchorage, AK 99510
907/344-4157

Jon B. Jolly, Inc.
5416 California Ave. S.W.
Seattle, WA 98136
206/938-4166

F.F. Wright, Ph.D.
P.O. Box 537
Douglas, AK 99824
907/364-2213

16 April 1980

Senator Bill Sumner
Chairman, Senate Resources Committee
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Sumner:

Your Resources Committee currently has before it HB 636 am, "An Act requiring flags for divers." At a recent hearing, the bill was passed over because of the objections of Senator Don Bennett. I was able to meet with Senator Bennett last week during a business trip to Juneau and we were able to resolve the differences on the measure.

Fortunately for us divers, Senator Bennett became concerned about the language "requiring" flags and then dictating that divers "shall" do this or that. He was concerned that the present language would change what was designed as a safety measure into an enforcement statute. In the course of our discussion, I realized why he was objecting to the bill in the form approved by the House.

After working through the measure and considering the possible effects on sport and commercial divers, in both fresh and salt water, I acceded to Senator Bennett's proposed changes in language. They are:

- changing the title from "An Act requiring flags for divers," to "An Act relating to flags for divers," and;
- substituting the word "may" for the word "shall" in lines 10, 12, 13 and 14.

These changes rightfully place the burden of responsibility on the divers themselves; if they display the flag, then they may expect boaters to steer clear. Otherwise, boat operators would be absolved of any legal responsibility. At the same time, these alterations will not create any new and potentially costly enforcement burden for the state.

I hope you and your committee will approve the measure, and further that you will work to secure its passage in the Senate on behalf of your diver constituents. Nevaquest, by the way, is our working group for underwater archaeology. We are actively seeking two historic Russian wrecks in Alaskan waters at this time. Thank you for your help.

Sincerely,

Dennis A. Cowals
Director, Nevaquest

March 21, 1980

Senator Bill Sumner
Senate Resources Commission
2216 Culver Place
Anchorage, Alaska 99503

Dear Senator Sumner:

I am writing on behalf of a newly formed group, Southeast Alaska Underwater Council, based here in Ketchikan. Our main objectives lie in the safety and well being of divers here in Alaska.

House Bill number 636 should be supported and passed. Alaska is one of the only states in the United States of America that does not legally recognize the sport divers' red flag with a white diagonal stripe. The "divers down" flag is the only practical way of warning boaters of diving activities. As more and more Alaskans participate in diving, steps such as house bill 636 need to be enacted to insure safety in this rapidly developing area.

On behalf of the Southeast Alaska Underwater Council and the diving community at large, I thank you for your anticipated support and concern for divers' safety.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dianne Little".

Dianne Little

cc: Senator Bob Mulcahy
Senator Bob Ziegler

DL:lc

SYNOPSIS- HB 636am by Parker and Martin

An Act requiring flags for divers

The bill amends the Amusement and Sports section of the Alaska statutes by the addition of the following:

Any person in the water using an underwater breathing device shall:

1) Display a 12"x12" red flag with a white diagonal stripe.

2) It will extend at least 3 feet from the water and be affixed to the boat or on a float device.

3) It will be at or near the divers point of submergence and the diver should remain within 100 feet of the flag while underwater.

4) It will warn boat operators above water to stay 100 feet away from the flag and slow to no-wake speed or five miles per hour.

and with sight of the flag
within sight of the flag

Bill-

CASHB 636 is on today's calendar. It's the divers flag bill which says a diver may display a warning flag while underwater. Once he decides to display it, he will be at the point of submergence and he is to stay within 100 feet of the flag. All boat operators will stay 100 feet away from the flag and slow to no-wake speed or 5miles per hour.

The original bill required all divers to display such a flag but Senator Bennett objected to that hence he met with someone from the Divers Association and worked out the Committee Substitute. There was no opposition to the bill from divers or the Department of Public Safety.

HB 636 am

2/29 Called Public safety left message
with Mike Clemmons - requesting fiscal note
rps - will send copy of fiscal note

rps - Called Parkers office



Official Business

Alaska State Legislature

Senate

Committee on Resources

March 12, 1980

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Resource Committee Members
FROM: Jens Zehbe, Staff Member
REGARDING: HB 636am

This bill amends the Amusement and Sports section of the Alaska statutes by the addition of the following:

Any person in the water using an underwater breathing device

~~shall~~

may.

1) Display a 12"X 12" red flag with a white diagonal stripe.

2) ~~It will extend~~ at least 3 feet from the water and ~~will~~ be affixed to the boat or on a float device. *and extend*

3) It will be at or near the divers point of submergence and the diver is to remain within 100 feet of the flag while underwater.

4) ~~It will~~ warn boat operators above water and within sight of the flag, to stay 100 feet away from the flag and slow to no-wake speed or 5 miles per hour.

There is no fiscal impact

Introduced: 1/29/80
Referred: Community &
Regional Affairs

1 IN THE HOUSE

BY PARKER AND MARTIN

2 HOUSE BILL NO. 636 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring flags for divers."

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

8 * Section 1. AS 05.25 is amended by adding a new section to read:

9 Sec. 05.25.012. DIVER'S FLAG. A person who is in the water using
10 an underwater breathing device shall display a diver's flag constructed
11 of rigidly supported material at least 12 inches by 12 inches in area of
12 red background with a white diagonal stripe. This diver's flag shall be
13 displayed on a boat or surface float and shall extend a minimum distance
14 of three feet from the surface of the water. The diver's flag shall be
15 placed at or near the point of submergence and constitutes a warning
16 that a diver is submerged and may be within 100 feet of the flag. A
17 diver shall remain within 100 feet of the diver's flag while at or near
18 the surface. A boat operator within sight of a diver's flag shall
19 proceed with caution, steering clear of the flag by a distance of 100
20 feet. Boats maneuvering within a 100-foot radius of a diver's flag
21 shall be slowed to no-wake speeds or five miles per hour, whichever is
22 necessary to maintain steerage in the seaway. A diver's flag shall be
23 displayed only while diving operations are underway.

24
25 *100 ft radius*
26
27 *venter dredge.*

28 *2 Jun 48*
29 *74*

DIVERS FLAG LEGISLATION

Briefing paper for an act:

"An Act requiring flags for divers"

By Parker and Martin

Eleventh Legislature - Second Session

Every month, diver training programs in Anchorage, Fairbanks, Juneau, Sitka, Ketchikan and elsewhere are certifying an average of 50 new divers. Given the seasonal variation in interest, it's safe to say 500 or more divers are certified every year around the state.

And why not? With more miles of coastline than the other states combined, Alaska offers the underwater explorer a richness and variety of marine life found nowhere else in the U.S. The tropics are the deserts of the sea. The real riches -- as in commercial fishing -- are to be found in the high latitudes, north and south.

While there are no statistical data to confirm or refute what follows, the consensus among diving instructors puts the total number of certified divers living in Alaska in the five figure bracket. Although the guesses vary, the number of qualified -- not necessarily active -- divers in the state could easily be 20,000 or more; 10,000, certainly, is a credible number. And, it's a number that equals or exceeds the number of boats berthed in coastal harbors around the state.

DIVERS FLAG LEGISLATION
Briefing paper/2

So far, there have not been any diver-boat accidents. But, the growing numbers of divers and the growth of the recreational fleet state-wide raise the likelihood of such an occurrence from a possibility to a probability. At present, very few divers use the divers flag, saying either that the boaters do not know what it means, or that there are so few boats that the risks are minimal. Boaters, likewise, are generally unfamiliar with the ensign although its meaning is covered in Coast Guard boater safety courses.

In other states, the campaign for the adoption and recognition of the divers flag has used photographs showing the hideous pattern of propeller slashes across the back or side of an accident victim. Unless this legislation is adopted and a vigorous information campaign is launched such photographs could appear in the Alaskan press. Simply put, the growing numbers of divers and boaters using the same waters makes it mandatory that the divers flag be adopted and recognized as a warning that people are submerged and that boaters should steer clear of the area.

The onus is not on the divers or the boaters; the responsibility is mutual. Divers must display the flag if they want boaters to avoid the area in which they are diving. And boaters, no less than motor vehicle operators seeing a stop sign, must come to recognize the divers flag as an accepted warning symbol, as appropriate in Alaska's oceanic and lake environments as the stop sign is in every community.

Alaska is one of 13 states which as yet have not formally adopted or recognized the divers flag. All of the others have adopted or formulated some regulations defining conditions for its display and response by boaters. While specifics vary from state to state, most

DIVERS FLAG LEGISLATION
Briefing paper/3

Therefore, the recommended draft legislation covering the use and display of the divers flag in Alaska calls for 150 feet of boater clearance and no-wake speeds. Hopefully, its enactment will prevent needless tragedy in Alaska waters.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 636
 Title "An Act requiring flags for divers."
 Requested by Rep. Parker Date 2/13/80

II. FISCAL DETAIL

Agency Affected Public Safety
 Program Category Affected _____
 BRU, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | | 0 | 0 | 0 | | |

FUNDING (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|-----------------------------|-------|-------|-------|-------|-------|-------|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |

POSITIONS

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|-----------|-------|-------|-------|-------|-------|-------|
| FULL TIME | | | | | | |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

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

No fiscal impact is projected.

IV. DATE February 13, 1980 PREPARED BY *Mike Clemens*
 AGENCY Public Safety
 PHONE 465-4336
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)



Official Business

Alaska State Legislature

Senate

Committee on Resources

March 12, 1980

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Resource Committee Members

FROM: Jens Zehbe, Staff Member

REGARDING: HB 636am

This bill amends the Amusement and Sports section of the Alaska statutes by the addition of the following:

Any person in the water using an underwater breathing device shall:

- 1) Display a 12"X 12" red flag with a white diagonal stripe.
- 2) It will extend at least 3 feet from the water and will be affixed to the boat or on a float device.
- 3) It will be at or near the divers point of submergence and the diver is to remain within 100 feet of the flag while underwater.
- 4) It will warn boat operators above water and within sight of the flag, to stay 100 feet away from the flag and slow to no-wake speed or 5 miles per hour.

There is no fiscal impact.

Introduced: 1/29/80
Referred: Community &
Regional Affairs

1 IN THE HOUSE

BY PARKER AND MARTIN

2 HOUSE BILL NO. 636 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring flags for divers."

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

8 * Section 1. AS 05.25 is amended by adding a new section to read:

9 Sec. 05.25.012. DIVER'S FLAG. A person who is in the water using
10 an underwater breathing device shall display a diver's flag constructed
11 of rigidly supported material at least 12 inches by 12 inches in area of
12 red background with a white diagonal stripe. This diver's flag shall be
13 displayed on a boat or surface float and shall extend a minimum distance
14 of three feet from the surface of the water. The diver's flag shall be
15 placed at or near the point of submergence and constitutes a warning
16 that a diver is submerged and may be within 100 feet of the flag. A
17 di er shall remain within 100 feet of the diver's flag while at or near
18 the surface. A boat operator within sight of a diver's flag shall
19 proceed with caution, steering clear of the flag by a distance of 100
20 feet. Boats maneuvering within a 100-foot radius of a diver's flag
21 shall be slowed to no-wake speeds or five miles per hour, whichever is
22 necessary to maintain steerage in the seaway. A diver's flag shall be
23 displayed only while diving operations are underway.

24
25 *Replace shall with may*
26
27
28
29

DIVERS FLAG LEGISLATION

Briefing paper for an act:

"An Act requiring flags for divers"

By Parker and Martin

Eleventh Legislature - Second Session

Every month, diver training programs in Anchorage, Fairbanks, Juneau, Sitka, Ketchikan and elsewhere are certifying an average of 50 new divers. Given the seasonal variation in interest, it's safe to say 500 or more divers are certified every year around the state.

And why not? With more miles of coastline than the other states combined, Alaska offers the underwater explorer a richness and variety of marine life found nowhere else in the U.S. The tropics are the deserts of the sea. The real riches -- as in commercial fishing -- are to be found in the high latitudes, north and south.

While there are no statistical data to confirm or refute what follows, the consensus among diving instructors puts the total number of certified divers living in Alaska in the five figure bracket. Although the guesses vary, the number of qualified -- not necessarily active -- divers in the state could easily be 20,000 or more; 10,000, certainly, is a credible number. And, it's a number that equals or exceeds the number of boats berthed in coastal harbors around the state.

DIVERS FLAG LEGISLATION
Briefing paper/2

So far, there have not been any diver-boat accidents. But, the growing numbers of divers and the growth of the recreational fleet state-wide raise the likelihood of such an occurrence from a possibility to a probability. At present, very few divers use the divers flag, saying either that the boaters do not know what it means, or that there are so few boats that the risks are minimal. Boaters, likewise, are generally unfamiliar with the ensign although its meaning is covered in Coast Guard boater safety courses.

In other states, the campaign for the adoption and recognition of the divers flag has used photographs showing the hideous pattern of propeller slashes across the back or side of an accident victim. Unless this legislation is adopted and a vigorous information campaign is launched, such photographs could appear in the Alaskan press. Simply put, the growing numbers of divers and boaters using the same waters makes it mandatory that the divers flag be adopted and recognized as a warning that people are submerged and that boaters should steer clear of the area.

The onus is not on the divers or the boaters; the responsibility is mutual. Divers must display the flag if they want boaters to avoid the area in which they are diving. And boaters, no less than motor vehicle operators seeing a stop sign, must come to recognize the divers flag as an accepted warning symbol, as appropriate in Alaska's oceanic and lake environments as the stop sign is in every community.

Alaska is one of 13 states which as yet have not formally adopted or recognized the divers flag. All of the others have adopted or formulated some regulations defining conditions for its display and response by boaters. While specifics vary from state to state, most

DIVERS FLAG LEGISLATION
Briefing paper/3

Therefore, the recommended draft legislation covering the use and display of the divers flag in Alaska calls for 150 feet of boater clearance and no-wake speeds. Hopefully, its enactment will prevent needless tragedy in Alaska waters.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 636
 Title "An Act requiring flags for divers."
 Requested by Rep. Parker Date 2/13/80

II. FISCAL DETAIL

Agency Affected Public Safety
 Program Category Affected _____
 BRU, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

| | FY 80 | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 |
|--------------------------|-------|-------|-------|-------|-------|-------|
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| 200 TRAVEL | | | | | | |
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| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | | 0 | 0 | 0 | | |

FUNDING (Thousands of Dollars)

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Fund Source) | | | | | | |
| | | | | | | |

POSITIONS

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

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

No fiscal impact is projected.

IV. DATE February 13, 1980 PREPARED BY *Mike Clemens*
 AGENCY Public Safety
 PHONE 465-4336

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