

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2864 SRES SB 379 - SB 407 200

Table 1

General Fund Unrestricted Revenues

--Fisheries Taxes--
(millions of dollars)

	<u>FY 71</u>	<u>FY 72</u>	<u>FY 73</u>	<u>FY 74</u>	<u>FY 75</u>	<u>FY 76</u>	<u>FY 77</u>	<u>FY 78</u>	<u>FY 79</u>	<u>FY 80</u>	<u>FY 81</u>	<u>FY 82</u>	<u>FY 83</u>
Fisheries Business Tax													
Fish - Canned Salmon	3.5	2.7	1.7	1.4	1.6	1.8	3.8	5.5	6.7	4.3	5.3	8.6	4.3
Fish - Shore Based	.3	.3	.5	.9	.8	.8	1.9	2.3	3.3	7.6	11.0	8.7	11.5
Fish - Floating	.2	.2	.3	.5	.3	.5	.5	.5	1.9	2.7	3.8	5.5	4.7
Total	<u>4.0</u>	<u>3.2</u>	<u>2.5</u>	<u>2.8</u>	<u>2.7</u>	<u>3.1</u>	<u>6.2</u>	<u>8.3</u>	<u>11.9</u>	<u>14.6</u>	<u>20.7</u>	<u>22.8</u>	<u>20.5</u>
Limon Enhancement Tax	--	--	--	--	--	--	--	--	--	--	--	<u>2.4</u>	<u>2.6</u>
Seafood Marketing Assessments	--	--	--	--	--	--	--	--	--	--	--	--	<u>.9</u>
Total Taxes	<u>4.0</u>	<u>3.2</u>	<u>2.5</u>	<u>2.8</u>	<u>2.7</u>	<u>3.1</u>	<u>6.2</u>	<u>8.3</u>	<u>11.9</u>	<u>14.6</u>	<u>20.7</u>	<u>25.2</u>	<u>24.0</u>
Percent of Total General Fund Unrestricted Revenues	1.8	1.5	1.2	1.1	0.8	0.4	0.7	1.1	1.1	0.6	0.6	0.6	0.7

CITY OF KODIAK
RESOLUTION NUMBER 09-84

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK SUPPORTING USE OF THE STATE PORTION OF THE RAW FISH TAX TO PROVIDE TAX CREDITS TO SHORE-BASED FISH PROCESSORS

WHEREAS, investment capital for onshore processing facilities is recognized as a top priority in Kodiak's fishing community; and

WHEREAS, because the Kodiak King Crab season did not open in 1983, and may not open in the near future, diversification is needed; and

WHEREAS, the potential growth of Kodiak's bottomfish industry makes it especially important that this segment of the processing industry be promoted,

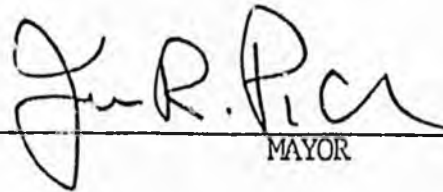
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that the Governor and the Legislature be and are hereby urged to provide raw fish tax credits against the State's fifty percent for upgrading and modernization of shore-based fish processing facilities.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to:

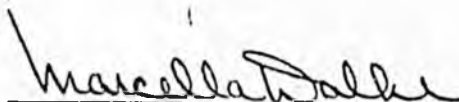
The Honorable Bill Sheffield, Governor of Alaska
The Honorable Stephen McAlpine, Lieutenant Governor of Alaska
All Alaska State Senators
All Alaska State Representatives
The Kodiak Island Borough
The Kodiak Area Chamber of Commerce

PASSED AND APPROVED this 9TH day of FEBRUARY, 1984.

CITY OF KODIAK


MAYOR

ATTEST:


CITY CLERK

January 19, 1984

Senator Bob Mulcahy
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Mulcahy,

After our phone conversation on Wednesday I did some more thinking. I believe that 1984 will be a critical year for Alaska and more important for me, Kodiak's entry into Bottomfish processing. I would urge you to support a Fish Tax bill that would allow a tax credit for 1984.

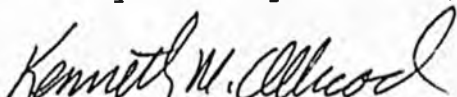
At the present time we are planning to install a Baader Codfish fileting machine. In fact we have Board approval at this time. This line could be operational in March 1984, but if there is no chance for a tax credit in 1984 it will most likely be delayed.

Our present budget for 1984 calls for processing 1,000,000 lbs of Codfish in 1984 with direct labor dollars of \$56,000.00. In 1985, 5,000,000 lbs of Codfish with direct labor \$262,500.00 and 1986, 8,000,000 lbs and \$420,000.00. We also expect to pay to the fishermen in 1984 - \$190,000.00, 1985 - \$1,000,000.00, and 1986 - \$1,680,000.00. This would all be new money to Kodiak and Alaska. It should create the year-round jobs that will raise the quality of our processing workers - much more professional labor for all species. When you compare our 1983 direct labor dollars of \$750,000.00 you can see that Bottomfish would result in a much expanded payroll. If this was to be multiplied by 8 or 10 plants it would mean big dollars to Kodiak and Alaska.

If Western Alaska Fisheries puts in the equipment in 1984 at a capital cost of around \$200,000.00 without a tax credit, and the 1984 test runs are disappointing, we could lose our Corporate support in 1985 even with the tax credit.

I would also like to stress again that if the State sells or leases the Gibson Cove plant at less than fair market value, restriction should be placed on that plant to only process under-developed species.

Thankyou for your time,


Kenneth M Allread
General Manager

S

B

3

9

1

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POLICH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

April 9, 1984
3:05 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Ziegler, Vice Chairman
Senator Eliason
Senator Paul Fischer
Senator Vic Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 379, An Act establishing a fisheries business tax credit.

SB 391, An Act relating to fees for, sales of and collection of fees for sport fishing and hunting licenses and commercial fishing crewmember licenses.

SB 399, An Act relating to trespassing and posting of land.

SCR 44, Relating to management of state construction materials.

SB 379

Senator Mulcahy stated that this bill was heard in Fisheries Subcommittee and reported back to full Committee with all members recommending do pass. He explained that SB 379 was suggested by the Governor's Task Force on Fisheries and has the support of fishermen and processors. It would allow a tax credit of up to 50% for shore based processors and is intended to help the development of a bottomfish industry.

Senator Sturgulewski asked for clarification that local communities would still receive their full share of fisheries taxes.

Norman Staton, Special Assistant to the Commissioner of the Department of Revenue, explained that the tax credit would apply only to the down payment portion of capital expenditures.

SB 391

Senator Mulcahy reviewed the major provisions of the bill and reported that the Subcommittee on Fisheries recommended do pass.

Martin Richard, Division of Public Services, Department of Revenue, answered questions on Section 1 of the bill, which would allow residents of group homes to qualify for 25¢ licenses, and Section 3, which makes falsification of information on license applications a crime of perjury.

SB 399

Sandra Schubert, Aide to Senator Fahrenkamp explained that the Committee Substitute would require that property owners who choose to post their land place notices at each roadway or apparent way of access onto the property, and that the notices contain the name and address of the property owner.

Senator Ziegler moved CSSB 399 from Committee with individual recommendations. There was no objection.

SCR 44

Senator Vic Fischer explained that SCR 44 requests that the Department of Natural Resources inventory and set aside reserves of sand and gravel on a statewide basis, and establish a program of managing sand and gravel resources.

Ned Farquhar, Special Assistant to the Commissioner of Natural Resources, testified that the Department supports the resolution.

Ross G. Schaff, State Geologist, spoke in support of the resolution as it provides a focus to the State Geological Survey to initiate a statewide inventory of sand and gravel resources.

Randall G. Updike, State Geological Survey, reviewed the timeline and methodology for implementing the proposed program.

Senator Vic Fischer moved SCR 45 from Committee with individual recommendations. There was no objection.

The meeting adjourned at 3:50 pm.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

April 11, 1984
3:08 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chairman
Senator Eliason
Senator Vic Fischer
Senator Mulcahy
Senator Sturgulewski
Senator Gilman

CALENDAR

SB 379, An Act establishing a fisheries business tax credit.

SB 391, An Act relating to fees for, sales of, and collection of fees for sport fishing and hunting licenses and commercial fishing crewmember licenses.

CSHB 589 (Finance)am, An Act relating to the Alaska Power Authority authorizing the construction of the Watana and Bradley Lake hydroelectric projects.

SCS CSHB 684 (Resources), An Act making special appropriations to the Alaska Power Authority.

SB 379
SB 391

Senator Mulcahy moved SB 379 and SB 391 from Committee with individual recommendations. There was no objection.

CSHB 589 (Fin)am

Larry Crawford, Executive Director, Alaska Power Authority, spoke in support of the bill, assuring the committee that the APA would not spend money for detailed design work on either Watana or Bradley until power sales agreements have been signed, and a plan of finance has been approved.

Pete McDowell, Director, Office of Management and Budget, testified that the Governor supports the bill and agreed to a proposed letter of intent that would assure that OMB's existing project review process will continue.

Dave Hutchens, Alaska Rural Electric Cooperative Association, spoke in support of the bill and submitted an amendment that would authorize Bradley and Watana at a specified funding level and keep interest earned from the appropriations in the Power Development Fund.

Martha Fox, Assistant Attorney General, testified that the Attorney General's office would defend the dedication of interest to the Power Development Fund.

Representative Ron Wendte urged that the development of these projects be done with full knowledge of the costs and impacts to those people affected. With the assurances given by the Administration that the existing process of review would continue, he is in support of the bill.

Jay Nelson, Alaska Environmental Lobby, did not support HB 589, testifying that the bill provides no assurance that the four dam pool problems will not be repeated on Bradley and Susitna. He also objected to the incorrect figures for projected costs of the projects.

CSHB 684 (Fin)am

Larry Crawford, Alaska Power Authority, answered questions on sections of the bill dealing with rate stabilization, system increment, and funds for design work on the Bradley Lake and Susitna projects. He agreed that a letter of intent outlining when funds would be spent should accompany this bill.

Dave Hutchens, Alaska Rural Electric Cooperative Association, proposed amendments to the bill that would clarify when appropriations to the Susitna project would be made and establish a deposit schedule for the appropriations.

The committee adjourned at 4:20 pm.

(b) When obtaining the appropriate license or tag in (a) of this section, an applicant who asserts residency in the state shall provide the license vendor with the proof of residence that the department requires by regulation. (§ 1 art II ch 94 SLA 1959; am § 1 ch 61 SLA 1962; am § 1 ch 42 SLA 1968; am § 1 ch 140 SLA 1968)

Opinions of attorney general. — Alaska's fish and game laws are applicable as federal law on military reservations. 1964 Op. Att'y Gen., No. 2.

Hunting or fishing at a military reservation must be in accord with Alaska laws regulating seasons bag limits, methods of taking, etc. 1964 Op. Att'y Gen., No. 2.

But military personnel are not required to comply with licensing requirements while on reservation. 1964 Op. Att'y Gen., No. 2.

Since AS 16.05.940(14) does not grant special resident privileges to military personnel, which is a requisite for requiring them to purchase licenses for use on military reservations under 10 U.S.C. 2671(a) (2), they cannot be required to do so. 1964 Op. Att'y Gen., No. 2.

Sec. 16.05.335. Complimentary licenses. The commissioner of revenue shall annually, at the request of the governor, provide the governor with not more than 50 complimentary fishing and hunting licenses and appropriate big game tags which the governor may distribute to distinguished visitors to Alaska for their use in any one season during their visits to the state. The complimentary license for sport fishing or hunting or both shall be inscribed by the governor with the inclusive dates for its authorized use. The governor shall advise the Department of Fish and Game on any complimentary issuances, which information shall be available to the public. (§ 1 art II ch 94 SLA 1959; am § 1 ch 61 SLA 1962; am § 1 ch 31 SLA 1963; am § 1 ch 6 SLA 1965)

Sec. 16.05.340. License and tag fees. (a) Fees for licenses and tags are as follows:

- (1) Resident sport fishing license \$10] S.1
 - However, the fee is 25 cents for a resident who is blind.
 - (2) Resident hunting license 12
 - (3) Resident hunting and trapping license 15
 - (4) Resident trapping license 3
 - (5) Resident hunting and sport fishing license 22
 - (6) Resident hunting, trapping, and sport fishing license 25
- However, the fee is 25 cents for an applicant who is the head of a family or a dependent member of that family or who is solely self-supporting.

Construing this section and AS 16.05.340 against federal law (10 U.S.C. § 2671(a)), a member of the military who does not qualify as a resident under AS 16.05.940(20) is not required to obtain an Alaska trapping license to trap on military lands. 1977 Op. Att'y Gen., No. 21.

Collateral references. — 35 Am. Jur. 2d, Fish & Game, § 45. 38 C.J.S., Game, § 15.

Applicability of state fishing license laws or other public regulations to fishing in private lake or pond, 15 ALR2d 754.

Right to kill game in defense of person or property, 93 ALR2d 1366.

Public rights of recreational boating, fishing, wading, or the like in inland stream the bed of which is privately owned, 6 ALR4th 1030.

(A) is obtaining or has obtained assistance during the preceding six months under any state or federal welfare program to aid the indigent, or

(B) has an annual family gross income of less than \$5,600 for the year preceding application.

(7) Visitor's special sport fishing license — valid for the period inscribed on the license

- (A) For 14-day license \$20
- (B) For three-day license 10
- (8) Nonresident sport fishing license 36
- (9) Nonresident hunting license 60
- (10) Nonresident hunting and sport fishing license 96

A nonresident may not take a big game animal without previously purchasing a numbered, nontransferable, appropriate tag, issued to the nonresident as provided in (15) of this subsection. The tag shall be affixed to the animal immediately upon capture and shall remain affixed until the animal is prepared for storage, consumed, or exported. A tag issued but not used for an animal may be used to satisfy the tagging requirement for any other animal of the species named for which the tag fee is of equal or less value.

- (11) Nonresident hunting and trapping license \$200
- (12) Fur dealers:
 - (A) Resident fur dealer license 50
 - (B) Nonresident fur dealer license 200
- (13) Taxidermists:
 - (A) Resident taxidermy license 75
 - (B) Nonresident taxidermy license 200
- (14) Fish or game farming license 100
- (15) Nonresident big game tags:
 - (A) Bear, black, each 200
 - (B) ~~Repealed, § 1 ch 268 SLA 1976.~~
 - (C) Bear, brown or grizzly, each 350
 - (D) Bear, polar, each 500
 - (E) Bison, each 350
 - (F) Caribou, each 300
 - (G) Deer, each 135
 - (H) Elk, each 250
 - (I) Goat, each 250
 - (J) Moose, each 300
 - (K) Sheep, each 400
 - (L) Walrus, each 500
 - (M) Wolf, each 150
 - (N) Wolverine, each 150
 - (O) Musk oxen, each 1,100

(A) Bear, brown or grizzly, each \$25
The Board of Game may, by regulation effective for not more than one year, eliminate the resident brown or grizzly bear tag and fee for all or a portion of a game management unit.

(B) Musk oxen, each 500
However, the Board of Game may by regulation reduce or eliminate the fee for a resident big game tag for musk oxen for an open season.

(b) The commissioner of fish and game may issue without cost a permit to collect fish and game, including fur animals, subject to limitations and provisions that are appropriate, for a scientific, propagative, or educational purpose. In addition, the commissioner shall issue a permit for the collecting of wild fur animals for improving the genetic stock of fur farm animals. Permits issued under this subsection shall be in accordance with current sustained yield management practices for the species of wild game for which the permit is requested. The annual permit fee for an Alaska resident to collect wild fur animals for fur farming purposes is the same as the fee for resident trappers.

(c) The commissioner of revenue may issue a duplicate license or a duplicate tag as a replacement for a license or tag issued under (a) of this section. A fee of \$2 shall be charged for each duplicate license or tag and the duplicate shall not be issued unless the commissioner of revenue or a delegate is satisfied that the original has been lost or destroyed. This subsection does not apply to a 25-cent license issued under (a)(6) of this section.

(d) Members of the military service on active duty who are permanently stationed in the state, and their dependents, who do not qualify as residents under AS 16.05.940(20), may obtain special nonresident military small game and sport fishing licenses at the rates for resident hunting and sport fishing licenses, but may not take a big game animal without previously purchasing a regular nonresident hunting license and a numbered, nontransferable appropriate tag, issued at one-half of the nonresident rate, under (a)(15) of this section.

(e) Each master guide licensed under AS 08.54.100 and each registered guide licensed under AS 08.54.110 shall pay a fee in the following amount for each caribou, sheep, moose, brown or grizzly bear and polar bear taken on a hunt guided by or under the active supervision of the guide:

- (1) polar, brown or grizzly bear:
 - (A) for each polar, brown or grizzly bear taken over a total of 5 polar, brown or grizzly bear per season and up to a total of 10 polar, brown or grizzly bear — \$20;
 - (B) for each polar, brown or grizzly bear taken over a total of 10 polar, brown or grizzly bear per season and up to a total of 25 polar, brown or grizzly bear — \$100;
 - (C) for each polar, brown or grizzly bear taken over a total of 25

S.2

- (2) moose:
 - (A) for each moose taken over a total of 5 and up to a total of 10 per season — \$20;
 - (B) for each moose taken over 10 and up to a total of 25 per season — \$100;
 - (C) for each moose taken over 25 per season — \$500;
- (3) sheep:
 - (A) for each sheep taken over a total of 5 and up to a total of 10 per season — \$20;
 - (B) for each sheep taken over 10 and up to a total of 25 per season — \$100;
 - (C) for each sheep taken over 25 per season — \$500;
- (4) caribou:
 - (A) for each caribou taken over 5 and up to a total of 10 per season — \$20;
 - (B) for each caribou taken over 10 and up to a total of 25 per season — \$100;
 - (C) for each caribou taken over 25 per season — \$500. (§ 2 art II ch 94 SLA 1959; am § 1 ch 96 SLA 1959; am §§ 7 — 13 ch 131 SLA 1960; am § 1 ch 16 SLA 1963; am § 1 ch 29 SLA 1963; am § 2 ch 31 SLA 1963; am §§ 2, 3 ch 75 SLA 1964; am § 1 ch 83 SLA 1966; am § 2 ch 32 SLA 1968; am § 1 ch 4 SLA 1972; am §§ 1, 2 ch 180 SLA 1972; am §§ 2, 3 ch 82 SLA 1974; am § 1 ch 198 SLA 1976; am §§ 1, 2 ch 268 SLA 1976; am §§ 1, 2 ch 73 SLA 1979; am § 2 ch 19 SLA 1980; am §§ 1, 2, 4 ch 57 SLA 1980; am §§ 16, 17 ch 94 SLA 1980; am §§ 1—6 ch 40 SLA 1982; am §§ 2, 3 ch 23 SLA 1983; am § 1 ch 35 SLA 1983)

Revisor's notes. — Paragraph designations in subsection (a) were renumbered in 1983. Redrafted in 1982 to remove personal pronouns in conformity with AS 01.05.031(c).

Effect of amendments. — The 1979 amendment, in subsection (a), substituted "\$5,600" for "\$3,600" in subparagraph (B) of present paragraph (6) and added former paragraph (20).

The first 1980 amendment deleted "(permit required north of Yakutat only)" following "sport fishing permit" near the beginning of former paragraph (20) in subsection (a).

The second 1980 amendment added subparagraph (O) of present paragraph (a)(15), inserted "big game" at the beginning of present paragraph (a)(16), substituted a colon for "for bear, brown or grizzly, each . . . 25" near the beginning of present paragraph (a)(16), and added subparagraphs (A) and (B) and the last sentence in present paragraph (a)(16) and

The third 1980 amendment transferred the former last sentence of subsection (b) to the end of present paragraph (10) of subsection (a).

The 1982 amendment in present subsection (a)(7) substituted "14-day" for "10-day" in paragraph (A) and substituted "three-day" for "one-day" in paragraph (B). The amendment also increased the fees in present paragraphs (7), (8), (10) and (15) of subsection (a) and repealed former paragraph (a)(20), which read: "(20) King salmon (*Oncorhynchus tshawytscha*) and steelhead trout (*Salmo gairdneri*) sport fishing permit 5

A person who possesses a 25-cent license under (1) or (5) of this subsection may receive a king salmon and steelhead trout sport fishing permit without charge. A king salmon and steelhead trout sport fishing permit is nontransferable and must be signed by the bearer before use. The permit shall be used in conjunction with an appropriate sport fishing license. A person who receives a king salmon and

and steelhead trout sport fishing permit without charge." Further, the amendment, in subsection (d), inserted "one-half of" preceding "the nonresident rate."

The first 1983 amendment deleted ", fur" following "fish" in present paragraph (a)(14) and rewrote subsection (b).

The second 1983 amendment added the language to present (a)(16)(A) regarding the board's power to eliminate the tag and fee for a game management unit.

Editor's notes. — As enacted, § 1, ch. 21, SLA 1982, added a second sentence to present paragraph (a)(5) of this section. This new material, however, was renumbered as AS 16.05.341 by the revisor of statutes pursuant to AS 01.95.031.

Opinions of attorney general. — Construing subsection (d) with federal law

(10 U.S.C. § 2671(a)), a member of the military who does not qualify as a resident under AS 16.05.940(20) is required to obtain an Alaska sport fishing license to engage in sport fishing on military lands. 1977 Op. Att'y Gen. No. 21.

Construing AS 16.05.330 and this section, with federal law (10 U.S.C. § 2671(a)), a member of the military who does not qualify as a resident under AS 16.05.940(20) is not required to obtain an Alaska trapping license to trap on military lands. 1977 Op. Att'y Gen. No. 21.

The special small game hunting license for military personnel authorized by subsection (d) may not be used for hunting all game (including big game) once the holder achieves resident status. 1977 Op. Att'y Gen. No. 21.

Sec. 16.05.341. Free license for disabled veterans. A person may receive a resident hunting and sport fishing license (AS 16.05.340(a)(5)) without charge if the person

(1) has been discharged from military service under honorable conditions;

(2) is eligible for a loan under AS 18.56.101; and

(3) is certified by the United States Veterans' Administration as having incurred a 50 percent or greater disability during military service. (§ 1 ch 21 SLA 1982)

Revisor's notes. — Enacted as the second sentence of AS 16.05.340(a)(4). Renumbered in 1982.

Sec. 16.05.345. Musk oxen. [Repealed, § 4 ch 57 SLA 1980. For current law see AS 16.05.346.]

Sec. 16.05.346. Permit applications. (a) If the Board of Game declares an open season for musk oxen and has not reduced or eliminated the \$500 resident tag fee under AS 16.05.340(a)(16), the department shall conduct a drawing for permits to take the musk oxen. If the Board of Game declares an open season for musk oxen for which the Board of Game has reduced or eliminated the resident tag fee, the department shall issue permits to take the musk oxen in the order in which applications are received by the department. A person is not eligible for more than one musk oxen permit a year. The department may not charge a fee for an application for a musk oxen permit for an open season in which the Board of Game has reduced or eliminated the resident tag fee under AS 16.05.340(a)(16). In all other cases the application fee for a musk oxen permit is \$10.

(b) Except as provided in (a) of this section, the permit application

Revisor's notes. — Formerly AS 16.05.345. Renumbered in 1980.

Sec. 16.05.350. Expiration of licenses and tags. Licenses and tags required under AS 16.05.330 — 16.05.430, except the visitor's special sport fishing license and the resident trapping license, expire at the close of December 31 following issuance. The resident trapping license expires at the close of September 30 of the year following the year in which the license is issued. (§ 3 art II ch 94 SLA 1959; am § 1 ch 13 SLA 1964; am § 13 ch 71 SLA 1972)

Sec. 16.05.360. Commissioner of revenue charged with license issuance. The commissioner of revenue or an authorized deputy shall issue each license and tag to a qualified person under written application containing such reasonable information as required by the commissioner. The commissioner shall designate the license and tag form or type. The form or type shall be sufficient to identify and locate the applicant and establish the applicant's status as to residency and citizenship. Each application shall be subscribed and sworn to by the applicant before an officer authorized to administer oaths in the state. (§ 4 art II ch 94 SLA 1959; am § 3 ch 31 SLA 1963) S.3

Sec. 16.05.370. Reports by licensees. The commissioner of fish and game may require a report to be made by each licensee concerning the time, manner, and place of taking fish and game, the kinds and quantity taken, and other information helpful in administering the fish and game resources of the state. (§ 4 art II ch 94 SLA 1959; am § 4 ch 31 SLA 1963)

Sec. 16.05.380. Commissioner of revenue may appoint agents. The commissioner of revenue may appoint state employees or other persons to take applications, issue licenses and tags, and collect fees. The commissioner is not liable for defalcation or failure to account for the fees collected by any person so appointed, but the commissioner shall require a bond in an adequate sum, conditioned upon faithfully accounting for all money collected. However, the commissioner may waive the bond requirements of an instrumentality of the United States or its agents and employees, when the instrumentality or its agents or employees sell licenses primarily to persons in the armed forces. Each person, upon appointment by the commissioner, may administer oaths on applications for licenses and tags. (§ 5 art II ch 94 SLA 1959; am § 14 ch 131 SLA 1960; am § 5 ch 31 SLA 1963) S.4

Sec. 16.05.390. Fees and compensation for issuance of licenses and tags. (a) Except as provided in (e) of this section, an agent appointed and authorized by the commissioner of revenue under AS 16.05.380 to sell licenses and tags is entitled to

(1) retain five percent of the fee that is charged for a license or tag

that
within
§ 1

amis-
of the
issued
me to
ereon
next
SLA

er this
es in
he full
hereby
tes the
s in the
t such
am § 3

ppriated
for the
der this
of issu-
s.
gislative
riations

re by the
appro-
us fiscal
and an
76)

Revisor's notes. — Formerly AS
43.85.035. Renumbered in 1969.

Sec. 43.08.040. Sale of notes. Notes authorized to be issued under this chapter shall be sold by the commissioner of revenue in the manner and at the price or prices as the commissioner shall determine, at either public or private sale; however, no note shall be sold at less than par and accrued interest. (§ 1 ch 53 SLA 1964; am § 1 ch 31 SLA 1975)

Revisor's notes. — Formerly AS
43.85.040. Renumbered in 1969.

Sec. 43.08.050. Execution of notes. Notes for money borrowed in anticipation of revenues shall be signed by the governor and countersigned by the lieutenant governor. The governor's signature may be a facsimile signature. (§ 1 ch 53 SLA 1964)

Revisor's notes. — Formerly AS 43.85.050. Renumbered in 1969. "Secretary of state" was changed to "lieutenant governor" in 1971 in conformity with the 1970 Alaska constitutional amendment (SJR 2) changing the designation of that office.

Sec. 43.08.060. Decision. The commissioner of revenue shall have discretion to determine the necessity for time, amount, and terms of such borrowing. The reasonable exercise of such discretion shall be final and conclusive. (§ 4 ch 112 SLA 1964)

Revisor's notes. — Formerly AS
43.85.060. Renumbered in 1969.

Chapter 10. Enforcement and Collection of Taxes.

Article

1. Legal Actions and Liens (§§ 43.10.010 — 43.10.060)
2. Reciprocity (§§ 43.10.070 — 43.10.080)
3. Uniform Federal Tax Lien Registration Act (§§ 43.10.090 — 43.10.150)
4. Nonresident Businesses (§§ 43.10.160 — 43.10.200)

Article 1. Legal Actions and Liens.

Section	Section
10. Attorney general to prosecute violation of revenue laws	32. Enforcement
15. Bad checks	35. Lien
20. Disposition of money collected from actions	42. Recording lien and certificate of discharge
30. Distraint on property extended to all state revenue statutes	45. Suspension of licenses
	60. Use as evidence

§ 43.10.015

applicable to AS 1324. Property for unpaid of property by AS 593. is subject of AS 8 ALR4th

ation of ry civil and osts of the Department

issioner of e collection e collection state. The a direct fee iders fair amissioner ariation for h 127 SLA

o complain of sessment of and local tax-

presented paid when the person and by the qual to one ichever is led by law nted to the dering the n does not h reason- SLA 1970)

§ 43.10.020

REVENUE AND TAXATION

§ 43.10.032

Sec. 43.10.020. Disposition of money collected from actions. All money derived from civil and criminal actions growing out of state revenue laws shall be deposited in the general fund. (§ 2 ch 36 SLA 1955; am § 2 ch 127 SLA 1960)

Sec. 43.10.030. Distraint on property extended to all state revenue statutes. The remedy of distraint on property, set out in AS 43.20.270, applies to all state revenue statutes existing or hereafter enacted for the collection of taxes and license fees. (§ 1 ch 43 SLA 1955; am § 2 ch 94 SLA 1976)

NOTES TO DECISIONS

Qualifying as taxpayer under duress. — One need not incur the risk of penalties, while the validity of the tax is being ascertained judicially, in order to qualify as a taxpayer under duress. *State v. Wakefield Fisheries, Inc.*, Sup. Ct. Op. No. 779 (File Nos. 1397, 1398), 495 P.2d 166 (1972).

Collateral references. — Inadequacy of price as basis for setting aside execution or sheriff's sale — modern cases, 5 ALR4th 794.

Sec. 43.10.032. Enforcement. (a) Each of the following is a debt to the state:

- (1) a tax levied under this title which is due and unpaid;
- (2) the interest, penalty, additional amount, or addition to a tax under (1) of this subsection;
- (3) a tax levied under this title which has been erroneously refunded; and
- (4) the interest, penalty, additional amount or addition to a tax which has been erroneously refunded.

- (b) A debt under (a) of this section may be
 - (1) collected by lien foreclosure; or
 - (2) recovered in a civil action brought by the state. (§ 6 ch 113 SLA 1980)

NOTES TO DECISIONS

Payment of income tax not condition precedent to carrying on business. — Former AS 43.20.220, concerning enforcement of income tax provisions, was not reasonably susceptible of a construction that it made payment of the tax a condition precedent to carry on any business, including that in interstate commerce, since forfeiture of the license is made one of the consequences of nonpayment of the tax, not a condition to engaging in business in the first instance. *Alaska S.S. Co. v. Mullaney*, 12 Alaska 433, 84 F. Supp. 561 (D. Alaska 1949), aff'd, 12 Alaska 594, 180 F.2d 805 (9th Cir. 1950).

Sec. 43.10.035. Lien. (a) If any person who is liable to pay a tax or license fee under this title neglects or refuses to pay the tax or license fee after demand, the amount, including interest, additional amount, or assessable penalty, together with costs, is a lien in favor of the state upon all property and right to property, real or personal, belonging to that person.

(b) Unless specifically provided otherwise by law, the lien imposed by this section arises at the time the assessment is made and continues until the amount assessed is paid or a judgment against the taxpayer arising out of the liability is satisfied. (§ 3 ch 94 SLA 1976)

NOTES TO DECISIONS

For cases construing former statute relating to tax liens, see *Territory of Alaska v. Arctic Maid*, 16 Alaska 126, 140 F. Supp. 190 (D. Alaska 1956), *aff'd*, 366 U.S. 199, 81 S. Ct. 929, 6 L. Ed. 2d 227 (1961); *Schlothman v. Einstross*, 17 Alaska 253 (1957), *aff'd*, 276 F.2d 806 (9th Cir.), *cert. denied*, 362 U.S. 990, 80 S. Ct. 1079,

4 L. Ed. 2d 1022 (1960); *Schlothman v. Territory of Alaska*, 276 F. 2d 806 (9th Cir.), *cert. denied*, 362 U.S. 990, 80 S. Ct. 1079, 4 L. Ed. 2d 1022 (1960).

Cited in *Fairbanks N. Star Borough v. Howard*, 29 Ct. Op. No. 2036 (File No. 4575), 608 P.2d 32 (1980).

Collateral references. — Special or local assessment lien as superior over earlier private lien or mortgage, where statute creating such special lien is silent as to superiority, 75 ALR2d 1121.

Duty to pay real-property taxes as

affected by time of commencement or termination of life estate, 8 ALR4th 643.

Special bank deposits as subject of attachment or garnishment to satisfy depositor's general obligations, 8 ALR4th 998.

Sec. 43.10.040. Recording and filing of state tax liens. [Repealed, § 45 ch 113 SLA 1980. For current law, see AS 43.10.042.]

Sec. 43.10.042. Recording lien and certificate of discharge. (a) A lien imposed under this title is not valid as against a mortgagee or other lien holder, pledgee, purchaser, or judgment creditor until notice of it is filed in the office of the recorder of the recording district where the property subject to the lien is situated. However, regardless of the date the liens are recorded, a lien arising out of a tax due under AS 43.56 and AS 43.75, including the penalties and interest on the tax, is a lien prior, paramount, and superior to all other liens, mortgages, hypothecations, conveyances, and assignments, upon all the real and personal property of the person liable for the tax, and upon all the real and personal property used with the permission of the owner to carry on the business which is subject to the tax.

(b) When a notice of a lien is filed, the recorder shall immediately enter the notice in an alphabetical state tax lien index, showing on one line the name and residence of the taxpayer named in the notice, the department's serial number of the notice, the date and hour of filing,

Alaska Statutes

Title 43. Revenue and Taxation.

Part

1. Administration (§§ 43.05.010 — 43.19.050)
2. Taxes (§§ 43.20.010 — 43.99.010)

Revisor's notes. — The provisions of this title were redrafted in 1983 to remove personal pronoun, pursuant to § 4, ch. 58, SLA 1982, and to make other minor changes.

Part 1. Administration.

Chapter

05. Administration of Revenue Laws (§§ 43.05.010 — 43.05.290)
08. Borrowing in Anticipation of Revenues (§§ 43.08.010 — 43.08.060)
10. Enforcement and Collection of Taxes (§§ 43.10.010 — 43.10.200)
15. Refunds of Taxes and Licenses (§ 43.15.010)
19. Multistate Tax Compact (§§ 43.19.010 — 43.19.050)

Chapter 05. Administration of Revenue Laws.

Article

1. Department of Revenue (§§ 43.05.130 — 43.05.130)
2. Fiscal Responsibilities (§§ 43.05.140 — 43.05.210)
3. Miscellaneous Provisions (§§ 43.05.220 — 43.05.290)

Article 1. Department of Revenue.

Section

10. Duties of commissioner of revenue
20. Collection agencies
25. Audit agents
30. Branch offices
40. Inspection of records or premises and issuance of summons
50. Return by department upon failure to make return or making false or fraudulent return
60. Agreements with department respecting liability

Section

70. Compromise of tax or penalty
80. Adoption of regulations
85. List of contributors
90. Preparation and publication of statistics
100. Disposition of money
110. Property in possession of deceased employee
120. Concealing property or evidence
130. Misdemeanor

Collateral references. — 71 Am. Jur. 21, State and Local Taxation, §§ 144 -- 149.

84 C.J.S. Taxation "§ 489, 501.

NOTES TO DECISIONS

Department of Revenue's failure to affix the seal of the commissioner of revenue to a summons issued under AS 43.05.040 was harmless error. State, Dep't of Revenue v. Oliver, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981).
Cited in Wien Air Alaska, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2527 (File No. 5594), P.2d (1982).

Sec. 43.05.020. Collection agencies. The commissioner of revenue may employ a collection agency outside the state to assist in the collection of revenue owed to the state. The commissioner may pay for these services by entering into contingent fee agreements the commissioner considers reasonable, or by the payment of amounts out of the proper appropriation for the department the commissioner considers reasonable. (§ 48-2-9(y) 1949; § 1 ch 100 SLA 1960)

Sec. 43.05.025. Audit agents. The commissioner of revenue may employ agents outside the state to assist in the audit of books and records located outside the state. Agents employed under this section are subject to the restrictions of AS 43.05.230. (§ 1 ch 166 SLA 1976)

Sec. 43.05.030. Branch offices. The department may establish branch offices essential for the efficient administration of its duties. (§ 48-2-8 ACLA 1949)

Sec. 43.05.040. Inspection of records or premises and issuance of summons. (a) The department may examine the books, papers, records, or memoranda of any person to ascertain the correctness of a return filed or to determine whether a tax or a payment for oil or gas royalty or net profits shares under a contract, agreement, or lease under AS 38.05 is due, or in an investigation or inspection in connection with tax matters or matters relating to oil and gas royalty or net profits under contracts, agreements, or leases under AS 38.05. The records and the premises where a business is conducted shall be open at all reasonable times for official inspection, and the department may summon any person to appear and produce books, records, papers, or memoranda bearing upon tax matters or matters relating to oil and gas royalty or net profits under contracts, agreements, or leases under AS 38.05, and to give testimony or answer interrogatories under oath respecting tax matters or matters related to oil and gas royalty or net profits under contracts, agreements, or leases under AS 38.05, and the department may administer oaths to persons who are so summoned.

(b) A summons may be served by the commissioner of public safety or a peace officer designated by the commissioner or by a person designated by the Department of Revenue. If a person who is summoned neglects or refuses to obey the summons issued as provided in this section, the department may report the fact to the superior court and the court may compel obedience to the summons to the same extent as witnesses may be compelled to obey the subpoenas of the court. (§ 48-2-12(a) (b) ACLA 1949; am § 4 ch 61 SLA 1980)

Effect of amendments. — The 1980 amendment in subsection (a), inserted "or a payment for oil or gas royalty or net profits shares under a contract, agreement, or lease under AS 38.05" in the

first sentence, and inserted "or matters related to oil and gas royalty or net profits under contracts, agreements, or leases under AS 38.05" in three places in that subsection.

NOTES TO DECISIONS

For a discussion of the proper scope of summons issued by the Department of Revenue under this section, see *State, Dep't of Revenue v. Oliver*, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981).

Constitutionality of summons. — Department of Revenue's summons which was reasonably specific, asked only for material relevant to a legitimate tax inquiry, and was enforceable only by court order did not violate taxpayer's right

against unreasonable searches and seizures. *State, Dep't of Revenue v. Oliver*, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981).

Harmless error. — Department of Revenue's failure to affix the seal of the commissioner of revenue to a summons issued under this section was harmless error. *State, Dep't of Revenue v. Oliver*, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981).

Sec. 43.05.050. Return by department upon failure to make return or making false or fraudulent return. If a person fails to file a return at the time prescribed by law or by regulation, or makes, wilfully or otherwise, a false or fraudulent return, the department shall make the return from the information it obtains. A return made by the department is prima facie good and sufficient for all legal purposes. (§ 48-2-13 ACLA 1949)

NOTES TO DECISIONS

Application of privilege against self-incrimination. — The privilege against self-incrimination does not extend to the right to refuse to file a tax return. *State, Dep't of Revenue v. Oliver*, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981); *Cogan v. State, Dep't of Revenue*, Sup. Ct. Op. No. 2597 (File No. 6528), 657 P.2d 396 (1983).

A blanket refusal to disclose any financial information on a tax return based on the privilege against self-incrimination is equivalent to filing no return at all. *State, Dep't of Revenue v. Oliver*, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981); *Cogan v. State, Dep't of Revenue*, Sup. Ct. Op. No. 2597 (File No. 6528), 657 P.2d 396 (1983).

The privilege against self-incrimination

may be validly claimed in a prosecution for failure to file to avoid answering particular questions on a tax return if the answers to those questions would tend to incriminate an individual. *State, Dep't of Revenue v. Oliver*, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981).

Computation of tax based on W-2 forms. — An individual's privacy rights were not violated by the state's computation of tax liability based on W-2 forms after that person failed to file a tax return because the state did not ask the person anything but rather simply imposed a tax based on available information. *Cogan v. State, Dep't of Revenue*, Sup. Ct. Op. No. 2597 (File No. 6528), 657 P.2d 396 (1983).

Sec. 43.05.060. Agreements with department respecting liability. The department may enter into an agreement with a person relating to the liability of the person, or of a person or estate the person

Opinions of attorney general. — Permitting authority over live game, that is, nondomestic animals, rests with the Board of Game as implemented by the Department of Fish and Game. August 29, 1979, Op. Att'y Gen.

Neither the Board of Game nor the Department of Fish and Game has jurisdiction over domestic animals. August 29, 1979, Op. Att'y Gen.

NOTES TO DECISIONS

State may regulate extraterritorial fishing. — Paramount rights in the seabed and subsil beyond the three-mile limit were vested in the federal government. However, that principle of federal exclusivity does not preclude state regulation of fishery resources in the waters over that seabed. State v. Sieminski, Sup. Ct. Op. No. 1339 (File No. 2544), 556 P.2d 929 (1976).

Enforcement of the state's regulatory scheme in a case involving scallop fishing activities in extraterritorial waters was within the sphere of the state's prerogative to regulate extraterritorial fishing. State v. Sieminski, Sup. Ct. Op. No. 1339 (File No. 2544), 556 P.2d 929 (1976).

As to constraints on state regulation of extraterritorial fishing efforts, see State v. Sieminski, Sup. Ct. Op. No. 1339 (File No. 2544), 556 P.2d 929 (1976).

Citing this section in an information

instead of former AS 16.05.250 was not reversible error. — See Theodore v. State, Sup. Ct. Op. No. 305 (File No. 550), 407 P.2d 182 (1965), cert. denied, 384 U.S. 951, 86 S. Ct. 1570, 16 L. Ed. 2d 547 (1966).

Applied in Biele v. State, Sup. Ct. Op. No. 87 (File No. 152), 371 P.2d 811 (1962); Graybill v. State, Sup. Ct. Op. No. 1045 (File No. 1939), 522 P.2d 539 (1974); State v. Bundrant, Sup. Ct. Op. No. 1232 (File Nos. 2295, 2435, 2444), 546 P.2d 530, rehearing denied, 547 P.2d 838 (Alaska 1976); Graybill v. State, Sup. Ct. Op. No. 1234 (File No. 2386), 545 P.2d 629 (1976); Schuster v. State, Sup. Ct. Op. No. 1305 (File No. 2911), 553 P.2d 925 (1976); Nathanson v. State, Sup. Ct. Op. No. 1310 (File No. 2541), 554 P.2d 456 (1976).

Cited in United States v. Sylvester, 605 F.2d 474 (9th Cir. 1979); Wamsler v. State, Sup. Ct. Op. No. 1953 (File No. 3645), 600 P.2d 1359 (1979).

Collateral references. — Possession of game, or of specified hunting equipment,

prima facie evidence of violation, 81 ALR2d 1093.

Sec. 16.05.930. Exempted activities. (a) This chapter does not prevent the collection or exportation of fish and game, a part of fish or game or a nest or egg of a bird for scientific or educational purposes, or for propagation or exhibition purposes under a permit which the department may issue and prescribe the terms thereof.

(b) This chapter does not prohibit a person from taking fish or game during the closed season, in case of dire emergency, as defined by regulation adopted by the appropriate board.

(c) AS 16.05.920 does not prohibit rearing and sale of fish from private ponds, the raising of wild animals in captivity for food or the raising of game birds for the purpose of recreational hunting or game hunting preserves, under regulations adopted by the appropriate board.

(d) Nondomestic animals of any species may not be transferred or transported from the state under (a) of this section unless approved by the Board of Game in regular or special meeting. Animals transferred

certified by the department to be surplus and unnecessary to the sustained yield management of the resource. Each application for a permit under (a) of this section shall be accompanied by a statement prepared by the Department of Fish and Game examining the probable environmental impact of the action.

(e) This chapter does not prevent the traditional barter of fish and game taken by subsistence hunting or fishing, except that the commissioner may prohibit the barter of subsistence-taken fish and game by regulation, emergency or otherwise, if a determination on the record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.

(f) A permit may not be required for possessing, importing or exporting mink and fox for fur farming purposes. (§ 28 art I ch 94 SLA 1959; am § 1 ch 7 SLA 1972; am § 2 ch 104 SLA 1972; am § 4 ch 82 SLA 1974; am §§ 16, 17 ch 206 SLA 1975; am § 1 ch 20 SLA 1976; am § 13 ch 151 SLA 1978; am § 4 ch 23 SLA 1983)

Effect of amendments. — The 1983 amendment added subsection (f).

Legislative history reports. — For report on ch. 151, SLA 1978 (HB 960), see 1978 House Journal, p. 1154.

Editor's notes. — For legislative intent, see § 1, ch. 151, SLA 1978, in the 1978 Temporary and Special Acts and Resolves.

NOTES TO DECISIONS

Quoted in State v. Semaken, Ct. App. Op. No. 107 (File No. 6384), 648 P.2d 114 (1982).

Sec. 16.05.940. Definitions. In this chapter

(1) "aquatic plant" means any species of plant, excluding the rushes, sedges and true grasses, growing in a marine aquatic or intertidal habitat;

(2) "barter" means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature;

(3) "a board" means either the Board of Fisheries or the Board of Game;

(4) "commercial fisherman" means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this

definition does not apply to anyone aboard a licensed vessel as a US shore

or guest who does not directly or indirectly participate in the taking; and the term "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish;

(5) "commercial fishing" means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit, or by sale, barter, trade, or in commercial channels; the failure to have a valid subsistence permit in possession, if required by statute or regulation, is considered prima facie evidence of commercial fishing if commercial fishing gear as specified by regulation is involved in the taking, fishing for, or possession of fish, shellfish or other fish resources;

(6) "commissioner" means the commissioner of fish and game unless specifically provided otherwise;

(7) "department" means the Department of Fish and Game unless specifically provided otherwise;

(8) "domestic mammals" include musk oxen, bison and reindeer, if they are lawfully owned;

(9) "fish" means any species of aquatic finfish, invertebrates and amphibians, in any stage of their life cycle, found in or introduced into the state;

(10) "fish derby" means a contest in which prizes are awarded for catching fish;

(11) "fishing derby association" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

(12) "fish or game farming" means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and "captivity" means having the fish or game under positive control, as in a pen, pond, or an area of land or water which is completely enclosed by a generally escape-proof barrier;

(13) "fur dealing" means engaging in the business of buying, selling, or trading in animal skins; the term does not apply to a hunter or trapper selling the animal skins the trapper or hunter has legally taken, or to a person, other than a fur dealer, purchasing animal skins for the person's own use;

(14) "game" means any species of bird and mammal, including a feral domestic animal, found or introduced in the state, except domestic birds and mammals; and game may be classified by regulation as big game, small game, fur bearers or other categories considered essential for carrying out the intention and purposes of this chapter;

(15) "hunting" means the taking of game under this chapter and the regulations adopted under it;

(16) "nonresident" means a person who is not a resident of the state;

(17) "nonresident alien" means a person who is not a citizen of the United States and whose permanent place of abode is not in the United States;

(18) "operator" means the individual by law made responsible for the operation of the vessel;

(19) "resident" means a person who for 12 consecutive months has maintained a permanent place of abode in the state and who has continually maintained a voting residence in the state; and in the case of a partnership, association, joint stock company, trust, or corporation, "resident" means one that has its main office or headquarters in the state; however, a member of the military service who has been stationed in the state for the preceding 12 consecutive months is a resident for the purposes of this chapter, and the dependent of a resident member of the military service, who has been living in the state for the preceding year is a resident for the purposes of this chapter, and a person who is an alien but who for one year has maintained a permanent place of abode in the state is a resident for the purposes of this chapter;

(20) "seizure" means the actual or constructive taking or possession of real or personal property subject to seizure under this chapter by an enforcement or investigative officer charged with enforcement of the fish and game laws of the state;

(21) "sport fishing" means the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries;

(22) "subsistence fishing" means the taking, fishing for, or possession of fish, shellfish, or other fisheries resources for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(23) "subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the household on a permanent basis;

(24) "take" means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game;

(25) "taxidermy" means tanning, mounting, processing, or other treatment or preparation of fish or game, or any part of fish or game;

S.2

S.2

as a trophy, for monetary gain, including the receiving of the fish or game or parts of fish or game for such purposes;

(26) "trapping" means the taking of mammals declared by regulation to be fur bearers;

(27) "vessel" means a floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the state, but for the purposes of this chapter does not include aircraft;

(28) "visitor" means a nonresident or alien temporarily sojourning in the state as a visitor or tourist. (§ 2 art I ch 95 SLA 1959; am §§ 1 — 4 ch 131 SLA 1960; am § 1 ch 21 SLA 1961; am §§ 1, 2 ch 102 SLA 1961; § 9 art III ch 94 SLA 1959; am § 23 ch 131 SLA 1960; am § 1 ch 160 SLA 1962; am §§ 13, 14 ch 31 SLA 1963; am § 2 ch 32 SLA 1968; am § 3 ch 73 SLA 1970; am § 1 ch 91 SLA 1970; am § 4 ch 110 SLA 1970; am § 1 ch 90 SLA 1972; am § 5 ch 82 SLA 1974; am §§ 26, 82 ch 127 SLA 1974; am §§ 18 — 20 ch 206 SLA 1975; am § 12 ch 105 SLA 1977; am §§ 14, 15 ch 151 SLA 1978; am § 1 ch 78 SLA 1979; am § 1 ch 24 SLA 1980; § 4 ch 74 SLA 1982)

Revisor's note. — Reorganized in 1983 to alphabetize the defined terms.

Effect of amendments. — The 1979 amendment added "but for the purposes of this chapter does not include aircraft" to the end of present paragraph (27).

The 1980 amendment added present paragraph (8).

The 1982 amendment added present paragraph (17).

Legislative history reports. — For report on ch. 32, SLA 1968 (HCSCSSB 50 am), see 1968 House Journal, p. 169. For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Opinions of attorney general. — Paragraph (14) does not grant special resident privileges to military personnel. 1964 Op. Att'y Gen., No. 2.

Term "customary trade" as used in definition of "subsistence uses" allows for limited exchanges for cash other than for purely personal or family consumption. 1981 Op. Att'y Gen., No. 11.

Definition of "subsistence uses" in terms of "customary and traditional uses" of wild, renewable resources reflects the equating of "subsistence use" with use by rural residents. 1981 Op. Att'y Gen., No. 11.

NOTES TO DECISIONS

For construction of "commercial fisherman" under former law, see *Martinsen v. Mullaney*, 12 Alaska 455, 85 F. Supp. 76 (D. Alaska 1949).

Cited in *Starry v. Horace Mann Ins. Co.*, Sup. Ct. Op. No. 2548 (File No. 6472), 649 P.2d 937 (1982).

Sec. 16.05.950. Title of the chapter. This chapter may be cited as the Fish and Game Code. (§ 1 art I ch 94 SLA 1959)

NOTES TO DECISIONS

Chapter supersedes federal law. — When the various articles of the state law providing for the administration,

wildlife became effective, acts of Congress on the same subject were no longer of any force. *Metlakatla Indian Community v.*

23), 362 P.2d 901 (1961), vacated and remanded on other grounds, 369 U.S. 45, 82 S. Ct. 552, 7 L. Ed. 2d 562 (1962).

There is no intimation in the Alaska Statehood Act of an intent that any United States administration under the commercial fishery laws be carried out after the state had been certified as capable of its own management. *Metlakatla Indian Community, Annette Island Reserve v. Egan*, Sup. Ct. Op. No. 42 (File Nos. 21—23), 362 P.2d 901 (1961), vacated and remanded on other grounds, 369 U.S. 45, 82 S. Ct. 552, 7 L. Ed. 2d 562 (1962).

Upon Alaska's admission on January 3, 1959, the Alaska game laws and acts regulating commercial fisheries as "territorial laws," continued in force, but were modified by Ordinance No. 3 of the state constitution prohibiting the use of fish

traps for the taking of salmon for commercial purposes and by the Alaska Constitution, art. VIII, § 15, providing that "no exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the state." They were further modified by the enactment by the first state legislature of a law making it unlawful to erect, moor or maintain fish traps (SLA 1959, ch. 17), and by a later enactment (SLA 1959, ch. 95) making it unlawful to operate fish traps and prescribing penalties therefor. (See AS 16.10.070 — 16.10.110). *Metlakatla Indian Community, Annette Island Reserve v. Egan*, Sup. Ct. Op. No. 42 (File Nos. 21—23), 362 P.2d 901 (1961), vacated and remanded on other grounds, 369 U.S. 45, 82 S. Ct. 552, 7 L. Ed. 2d 562 (1962).

Chapter 10. Fisheries and Fishing Regulations.

Article

- 1. Interference with Streams and Waters (§§ 16.10.010 — 16.10.055)
- 2. Fish Traps and Other Illegal Fishing Devices (§§ 16.10.070 — 16.10.130)
- 3. Herring Spawn (§§ 16.10.172 — 16.10.175)
- 4. Migratory Fish and Shellfish (§§ 16.10.180 — 16.10.230)
- 5. Transportation of Fish and Shellfish (§§ 16.10.240 — 16.10.250)
- 6. Purchase of Fish (§§ 16.10.265 — 16.10.296)
- 7. Commercial Fishing Loan Act (§§ 16.10.300 — 16.10.370)
- 8. Salmon Hatcheries (§§ 16.10.375 — 16.10.475)
- 9. Fisheries Enhancement Loan Program (§§ 16.10.500 — 16.10.620)

NOTES TO DECISIONS

Cited in *State, N.S.E. Regional Aquaculture Ass'n v. Alex*, Sup. Ct. Op. No. 2488 (File Nos. 5065, 5086, 5142), 646 P.2d 203 (1982).

Collateral references. — 36 C.J.S., Fish, §§ 13 et seq., 26 et seq.

Article 1. Interference with Streams and Waters.

- | | |
|---|---|
| <p>Section</p> <p>10. Interference with salmon spawning streams and waters</p> <p>20. Grounds for permit or license</p> <p>30. Violation of AS 16.10.010 — 16.10.055</p> <p>40. Disposition of money received for fines and penalties</p> | <p>Section</p> <p>50. Construction of AS 16.10.010 — 16.10.050</p> <p>55. Interference with commercial fishing gear</p> |
|---|---|

SB 391 - AN ACT RELATING TO FEES FOR, SALES OF, AND COLLECTION OF FEES FOR
SPORT FISHING AND HUNTING LICENSES AND COMMERCIAL FISHING CREWMEMBER LICENSES.

Sponsor: Governor

In broad terms, SB 391 provides the Department of Revenue with greater enforcement authority in collecting hunting and fishing licenses and permit fees by registered selling agents (ie sporting good stores, etc.). Presently, enforcement powers are not well defined by statute.

Section 1: Provides residents of group homes with the same 25 cent reduced fee for sport fishing licenses as blind Alaska residents.

Section 2: Clarifies that non-resident military personnel must pay an initial non-resident big game license fee before becoming eligible for tags.

Section 3: Under statute, an applicant to sell licenses and permits need only have their applications notarized. SB 391 would require that the information on the application be signed under the penalty of perjury" clause.

Section 4: Presently, the Commissioner of DOR is required to mandate bonding for all agents. The rewrite relieves the mandate responsibility and makes it a discretionary one by the Commissioner.

Sections 5 & 9:

Section 6: Specifies that State employees selling licenses and permits are not entitled to compensation for sales unless it is not connected with their state employment.

Section 7: Requires that agents who fail to report and transmit collected fees are not eligible for compensation and are subject to civil penalty.

Section 8: Makes failure to report and transmit fees a misdemeanor.

Section 10: Gives the Department the authority to subpoena and audit records of agents.

Section 11 & 13 & 14:

Section 12: Makes failure to transmit license fees a debt to the state in addition to civil penalty.

SECTIONAL FOR PROPOSED CS FOR SB 391

sec. 1: This section makes residents of group homes and other similar facilities eligible for sport fishing licenses at the same 25¢ reduced rate that applies to blind Alaska residents.

sec. 2: Clarifies that military personnel in Alaska who are not Alaska residents must purchase a non-resident big game license at the regular rate before they are eligible for reduced military rates on tags, which are $\frac{1}{2}$ the non-resident rates.

sec. 3: Makes technical changes and adds that application forms for licenses and tags be simple in form and the information put on them by the applicant be truthful, under penalty of perjury. This replaces that the information be sworn to by the applicant.

sec. 4: [b] changes the requirement of a bond for agents from a mandatory to a discretionary duty of the commissioner of Revenue and prohibits requirement of a bond if the agent is employed by the Federal government and makes sales mainly to people in the armed forces. [c] gives the commissioner the authority to suspend or revoke the appointment of an agent who does not report all sales and transmit all of the fees collected except for the portion the agent is allowed to keep.

sec. 5: Adds that agents who collect fees for commercial fishing crew-member licenses must also transmit proceeds, except the portion they are allowed to retain, together with a report of sales to the commissioner just as sport fish and game and hunting guides license agents already do.

sec. 6: Specifies that state employees that sell licenses and tags as part of their duties are not entitled to retain portions of the fees as are agents not employed by the state, but a state employee would be entitled to retain a portion of the fees if issuing licenses and tags is not part of his/her duties as a state employee.

sec. 7: This is a new subsection that says that an agent who does not report and transmit fees forfeits the portion of fees otherwise allowed to be retained, is subject to civil and criminal penalties and enforcement action by the Department of Revenue and the Attorney General.

sec. 8: This section adds a subsection that makes failure to report to and transmit fees to the commissioner a violation of the statutes that detail the fees and compensations for issuances of licenses or tags for sport fish and game and commercial fisheries, also interim-use or entry permits. Failure to report or transmit fees is a misdemeanor which is punishable by a fine of not more than \$1,000 or by imprisonment for not more than 6 months or both.

sec. 9: This adds that violating the statute concerning the transmittal of fees to the commissioner that were collected by issuing an entry or interim-use permit is a class B misdemeanor. Violating the sport fish and game or commercial fishing crewmember license fee transmittal statutes is already a misdemeanor by law.

sec. 10: Extends present audit and subpoena powers of the Department of Revenue to the agents who are appointed to sell licenses to determine the proceeds due from the sales of licenses and tags, either sport fish and game, commercial fish crew-member, or entry or interim-use permits.

sec. 11: Extends Department of Revenue enforcement powers to collection of license fees including distraint of property.

sec. 12: Makes license fees not transmitted by agents a debt to the state along with a civil penalty assessed by the commissioner of Revenue.

sec. 13: Also extends Department of Revenue enforcement powers to collection of license fees, including imposition of a lien.

sec. 14: This section says the lien imposed in section 13 arises at the time the assessment is made or the time the fee is required to be transmitted to the commissioner, and continues until the amount assessed or the amount to be transmitted is paid or a judgement against the person with the liability is satisfied.

AMENDMENT TO CSSB 391 (Res):

Delete Section 1.

[Section 1. AS 16.05.340(a)(1) is amended to read:

(1) Resident sport fishing license\$10

However, the fee is 25 cents for a resident

(A) who is blind; or

(B) who is a resident of a group home, institution, or other facility other than a prison facility, operated by the state, a political subdivision of the state, or a nonprofit corporation that provides regular care and services to the persons residing there.]

RATIONALE:

As drafted, this section is quite broad and could apply to 971 licensed facilities with a total bed capacity of 2,265 persons. The provision was intended to allow administrators of group homes to take residents on outings. The Department will pursue a form of a group license at a later date.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 1/5/84

REQUEST

Bill/Resolution No: 391
Title: Fees/sales/collection of fees for sport fishing/hunting/commercial fishing crewmember licenses
Requestor: _____
Date of Request: _____
Sponsor Governor

FISCAL DETAIL

Agency Affected: Revenue
Program Category Affected: Public Services
BRU, Program or Subprogram(s) Affected: Public Services BRU
Public Services Component

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
REVENUE	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

analysis only

ANALYSIS: Attach a separate page for analysis

Prepared By: Martin J. Richard
Division: Public Services Division

Phone: 465-2392
Date: 1/5/84

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 1/9/84

Distribution (by Agency preparing fiscal note):

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

ANALYSIS

"An act relating to fees for, sales of, and collection of fees for sport fishing and hunting licenses and commercial fishing crewmember licenses."

PUBLIC SERVICES DIVISION BRU
PUBLIC SERVICES DIVISION COMPONENT

The passage of this bill would allow the Department of Revenue to charge those residents of group homes and other similar facilities the same 25 cent reduced fee for sport fishing licenses as blind Alaska residents. It would also allow the Department more authority over enforcement and collection of license fees not reported or transmitted by the agents to the Commissioner of Revenue.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 30, 1984

The Honorable Jalmar Kerttula
President of the Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to fees for sport fishing and hunting licenses, to sales by the agents of those licenses and of tags and commercial fishing crewmember licenses, and to transmission of license fees by agents to the Department of Revenue. The department has experienced a number of problems in recent years with agents who fail to account properly for fees collected from sales of licenses. The enforcement powers of the department in regard to these fees are not now well-defined by statute, and most of the bill is designed to both strengthen and clarify those powers.

Section 1 of the bill makes residents of group homes and other similar facilities eligible for sport fishing licenses at the same reduced 25-cent rate that applies to blind Alaska residents. Section 2 clarifies that military personnel in the state who are not Alaska residents must purchase a nonresident big game license at the regular rate before they are eligible for reduced rates on tags.

Section 3 of the bill substitutes a requirement that an individual who applies to be an agent must execute the application under "penalty of perjury" for the current requirement of notarization. Section 4 changes the requirement of a bond for agents from a mandatory duty of

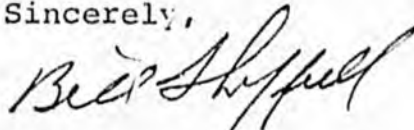
the commissioner of revenue to a discretionary power, and prohibits requirement of a bond if the agent is a federal employee who makes sales primarily to military personnel. Section 4 also authorizes the commissioner to suspend or revoke the appointment of an agent who does not comply with the requirements for agents established by law.

Agents are now required by AS 16.05.390 and 16.05.470 to report all sales and to transmit all but a small portion of the fees they collect to the department. Sections 5 and 9 of the bill add a cross-reference in those statutes for clarity and for uniformity between sport license agents and commercial license agents. Section 7 of the bill adds a provision that an agent who fails to report and transmit fees forfeits the compensation otherwise due and is subject to a civil penalty and enforcement action by the department and the attorney general. Section 6 of the bill specifies that state employees who sell licenses and tags as part of their duties are not entitled to the additional compensation for sales provided by AS 16.05.-390(a) for agents. On the other hand, state employees would be entitled to that extra compensation if the sale of licenses and tags is not connected with their state employment.

Section 8 of the bill makes failure to report to and transmit fees to the commissioner a violation of AS 16.05.390 or 16.05.470 which is a misdemeanor under AS 16.05.430.

Section 10 of the bill extends the present audit and subpoena powers of the department to the records of agents who are appointed to sell licenses. Sections 11, 13, and 14 extend other Department of Revenue enforcement powers to collection of license fees including distraint on property and imposition of a lien. Section 12 of the bill makes license fees not transmitted by agents, along with a civil penalty assessed by the commissioner, a debt to the state.

To improve the efficiency and decrease the cost of our distribution system for these licenses, I urge you to enact this bill.

Sincerely,

Bill Sheffield
Governor

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate Committee on Resources

TO: Senator Mulcahy, Chairman
Resources Subcommittee on Fisheries

FROM: Senator Fahrenkamp, Chairman *Bettye*
Senate Resources Committee

RE: SB 379; SB 391

The following bills have been referred to the Resources Committee. I am assigning them to the Subcommittee on Fisheries for consideration by the Subcommittee.

SB 379 - An Act establishing a fisheries business tax credit.

SB -391 - An Act relating to fees for, sales of, and collection of fees for sport fishing and hunting licenses and commercial fishing crewmember licenses.

cc: Senate Resources Committeemembers

S

B

3

9

9

SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: *SB 399*
BILL NAME: *Trespassing and posting of land*
SPONSOR(S): *Fuchs*
DATE INTRODUCED: *2-1-84*
REFERRALS: *Reserve
Military*

RELATED BILLS PENDING:

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:
SPONSOR CONTACTED FOR
BACKUP MATERIALS:
AGENCY RESPONSE:

SUMMARY BY LEGAL DIVISION:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

OTHER INTERESTED SENATORS OR
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:
STAFF MEMO TO COMMITTEE:
BACKGROUND MATERIAL DISTRIBUTED:
LIST OF WITNESSES:

DATE AND PLACE SET:

TELECONFERENCE:

PSA/PRESS RELEASE:

SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

Tanana Chiefs Conference, Inc.
Native Services
Bob Wilkinson
Rights Protection Specialist
320 2nd Avenue
Fairbanks, Alaska 99701
Phone 907/452-8251

burden of posting in rural areas, esp. native allotments. help if fail to post?

*Dick DeFevre, DNR
Trespass Officer*

*Land Managers Assoc, Anch 272-1254
Dan Alex
Fran Zimmerman*

*Hermann 4942
George Jacko
revised 15 O.K.*

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUGH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

April 9, 1984
3:05 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Ziegler, Vice Chairman
Senator Eliason
Senator Paul Fischer
Senator Vic Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 379, An Act establishing a fisheries business tax credit.

SB 391, An Act relating to fees for, rules of and collection of fees for sport fishing and hunting licenses and commercial fishing crewmember licenses.

SB 399, An Act relating to trespassing and posting of land.

SCR 44, Relating to management of state construction materials.

SB 379

Senator Mulcahy stated that this bill was heard in Fisheries Subcommittee and reported back to full Committee with all members recommending do pass. He explained that SB 379 was suggested by the Governor's Task Force on Fisheries and has the support of fishermen and processors. It would allow a tax credit of up to 50% for shore based processors and is intended to help the development of a bottomfish industry.

Senator Sturgulewski asked for clarification that local communities would still receive their full share of fisheries taxes.

Norman Staton, Special Assistant to the Commissioner of the Department of Revenue, explained that the tax credit would apply only to the down payment portion of capital expenditures.

SB 391

Senator Mulcahy reviewed the major provisions of the bill and reported that the Subcommittee on Fisheries recommended do pass.

Martin Richard, Division of Public Services, Department of Revenue, answered questions on Section 1 of the bill, which would allow residents of group homes to qualify for 25¢ licenses, and Section 3, which makes falsification of information on license applications a crime of perjury.

SB 399

Sandra Schubert, Aide to Senator Fahrenkamp explained that the Committee Substitute would require that property owners who choose to post their land place notices at each roadway or apparent way of access onto the property, and that the notices contain the name and address of the property owner.

Senator Ziegler moved CSSB 399 from Committee with individual recommendations. There was no objection.

SCR 44

Senator Vic Fischer explained that SCR 44 requests that the Department of Natural Resources inventory and set aside reserves of sand and gravel on a statewide basis, and establish a program of managing sand and gravel resources.

Ned Farquhar, Special Assistant to the Commissioner of Natural Resources, testified that the Department supports the resolution.

Ross G. Schaff, State Geologist, spoke in support of the resolution as it provides a focus to the State Geological Survey to initiate a statewide inventory of sand and gravel resources.

Randall G. Updike, State Geological Survey, reviewed the timeline and methodology for implementing the proposed program.

Senator Vic Fischer moved SCR 45 from Committee with individual recommendations. There was no objection.

The meeting adjourned at 3:50 pm.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

March 14, 1984
3:06 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chairman
Senator Eliason
Senator Paul Fischer
Senator Vic Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 301, An Act establishing a furbearer management fund; and providing for an effective date.

Presentation by Alaska Water Resources Board.

SB 399, An Act relating to trespassing and posting of land.

SB 301

Senator Sturgulewski moved SB 301 from committee with individual recommendations. There was no objection.

Alaska Water Resources Board

Esther Wunnicke, Commissioner, Department of Natural Resources, introduced members of the Board.

David Vanderbrink, Alaska Water Resources Board, explained that the Board consists of six public representatives and the Commissioners of the Departments of Environmental Conservation and Natural Resources.

Tom Meachum, Water Resources Board, discussed the need for legislation that would outline methods for adjudicating federally reserved water rights.

Peg Tileston, Water Resources Board, informed the Committee of the funding needs of the oil spill contingency fund and of the Water Board itself.

Randy Wanamaker, Water Resources Board, encouraged the State to join the Western States Water Council.

Larry Dutton, Water Policies and Procedures Section, Division of Land and Water Management, Department of Natural Resources clarified that the Western States Water Council is an arm of the Western States Governor's Association and discussed the fees for membership.

Bill Bivins, Federal Energy Management Agency, Dam Safety Division, recommended that the State establish a dam safety program to become eligible for federal funds and to reduce insurance costs.

Esther Wunnicke, Commissioner, explained that DNR has responsibility for dam safety. An inventory funded in FY 84 found at least 10 high hazard dams that need attention.

SB 399

Senator Faiks explained that the bill addresses the problems of unwitting trespassers on unposted land by requiring that land be posted with signs containing specific information signs to have certain information.

Gayle Horetski, Assistant Attorney General, answered questions on the State's liability under existing law.

The meeting adjourned at 4:04 pm.

Tanana Chiefs Conference, Inc.

Doyon Building
201 First Avenue
Fairbanks, Alaska 99701
Phone (907) 452-8251

March 14, 1984

Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

Dear Senator Fahrenkamp:

It has been brought to my attention that Senate Bill 399 is in front of the Senate Resources Committee. This bill is worded in such a manner that it is counterproductive to present state statutes.

A no action approach to this bill would have been preferred, but since this is not the direction your committee has taken, it is requested that some of the wording be amended.


In Sec. 34.52.010, No Trespassing Notice, it is stated that "...notices shall be posted every 500 feet along the exterior boundaries of property". In rural areas of the State this stipulation would be extremely difficult to comply with. The posting of Native allotments, within the Doyon Region alone, would require a minimum of 41,000 signs. This estimate does not include the posting of other lands such as those belonging to the corporation and private sectors.

Education of the public is necessary, but it could be done more effectively through the media and schools than by posting lands.

If you could assist in this problem, it would be appreciated.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.



Bob Wilkinson
Rights Protection Specialist

/crm

MAR 14 1984

Alaska State Legislature

OFFICIAL BUSINESS

CHAIRMAN
RULES COMMITTEE



JAN FAIKS
POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Senate

MEMORANDUM

DATE: February 15, 1984

TO: Senator Bettye Fahrenkamp
Chair, Senate Resources Committee

FROM: Senator Jan Faiks

SUBJECT: Senate Bill 399- An Act Relating to
Trespassing and Posting of Land

Senate Bill 399 has been referred to the Senate Resources Committee. I would very much appreciate a hearing for this legislation as soon as your committee schedule allows.

During the interim, a young constituent came to see me. He is a hiker and backpacker and generally enjoys the out-of-doors. Many times in trying to reach state land, he found he had to cross private land that was marked no trespassing. It was difficult for him to determine the boundaries of the private land and even more difficult for him to ascertain who the owner was.

I began to look into this to determine how other states require private land to be posted. In many cases, the owner, lessee, or person lawfully in possession of real property was required to conform to certain guidelines governing the posting of private land if they desired to prevent trespass to their property. The language in this bill closely parallels New Mexico's statutes.

The Department of Natural Resources tells me they already have the authority to enforce regulations prohibiting the private posting of state land. Therefore, I did not address that topic in this bill.

If you or your staff have any questions, please give me a call. I have quite a lot of information from other states that you are welcome to look through and share with your committee members.

Thank you. I look forward to working on this legislation with the Resources Committee.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

March 14, 1984
3:06 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chairman
Senator Eliason
Senator Paul Fischer
Senator Vic Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 301, An Act establishing a furbearer management fund; and providing for an effective date.

Presentation by Alaska Water Resources Board.

SB 399, An Act relating to trespassing and posting of land.

SB 301

Senator Sturgulewski moved SB 301 from committee with individual recommendations. There was no objection.

Alaska Water Resources Board

Esther Wunnicke, Commissioner, Department of Natural Resources, introduced members of the Board.

David Vanderbrink, Alaska Water Resources Board, explained that the Board consists of six public representatives and the Commissioners of the Departments of Environmental Conservation and Natural Resources.

Tom Meachum, Water Resources Board, discussed the need for legislation that would outline methods for adjudicating federally reserved water rights.

Peg Tileston, Water Resources Board, informed the Committee of the funding needs of the oil spill contingency fund and of the Water Board itself.

Randy Wanamaker, Water Resources Board, encouraged the State to join the Western States Water Council.

Larry Dutton, Water Policies and Procedures Section, Division of Land and Water Management, Department of Natural Resources clarified that the Western States Water Council is an arm of the Western States Governor's Association and discussed the fees for membership.

Bill Bivins, Federal Energy Management Agency, Dam Safety Division, recommended that the State establish a dam safety program to become eligible for federal funds and to reduce insurance costs.

Esther Wunnicke, Commissioner, explained that DNR has responsibility for dam safety. An inventory funded in FY 84 found at least 10 high hazard dams that need attention.

SB 399

Senator Faiks explained that the bill addresses the problems of unwitting trespassers on unposted land by requiring that land be posted with signs containing specific information signs to have certain information.

Gayle Horetski, Assistant Attorney General, answered questions on the State's liability under existing law.

The meeting adjourned at 4:04 pm.

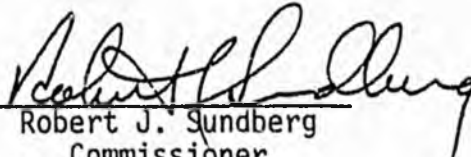
DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - CSSB 399

Support

This legislation delineates more clearly the requirements of posting lands against trespass. It would appear to make it easier to enforce trespass of open lands as intent could more readily be proven.

When land is properly posted and a person enters such land for the purpose of acting indifferent to the posting restriction, the act more clearly defines the intention to trespass.


Robert J. Sundberg
Commissioner

30-12-10. Interception of privileged or unauthorized communications.

Determination of whether evidence subject to public inspection. — Any determination of whether items of evidence are properly subject to public inspection and copying must necessarily consider the likeli-

hood of injury to parties not involved in the particular case at bar. *State ex rel. Bingham v. Brennan*, 98 N.M. 109, 645 P.2d 982 (1982).

New Mexico

30-12-11. Right of privacy; damages.

"Any person who intercepts" construed. — The meaning of "any person who intercepts" includes persons who have participated in the steps necessary to effectuate an unauthorized interception of communications which results in the violation of an individual's privacy. *Templin v. Mountain Bell Tel. Co.*, 97 N.M. 699, 643 P.2d 263 (Ct. App. 1982).

Civil action permitted whether or not conviction achieved. — The civil cause of action provided for in this section may be pursued regardless of whether the defendant has been convicted under 30-12-1 NMSA 1978. *Templin v. Mountain Bell Tel. Co.*, 97 N.M. 699, 643 P.2d 263 (Ct. App. 1982).

Corporations as well as individuals may be liable in damages if they participate in setting up

unauthorized interceptions of a customer's telephone communications. *Templin v. Mountain Bell Tel. Co.*, 97 N.M. 699, 643 P.2d 263 (Ct. App. 1982).

Duty of telephone company. — A telephone company has a duty to obtain the valid consent of a customer before placing an extension of the customer's phone in another person's residence. *Templin v. Mountain Bell Tel. Co.*, 97 N.M. 699, 643 P.2d 263 (Ct. App. 1982).

Am. Jur. 2d, A.L.R. and C.J.S. references. — Application to extension telephones of Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (18 USCS §§ 2510 et seq.), pertaining to interception of wire communications, 58 A.L.R. Fed. 594.

ARTICLE 14**Trespass****Sec.**

30-14-1. Criminal trespass.

30-14-1.1. Types of trespass; injury to realty; civil damages.

30-14-5. Repealed.

30-14-6. No trespassing notice; sign contents; posting;

Sec.

requirement; prescribing a penalty for wrongful posting of public lands.

30-14-7. Repealed.

30-14-8. Breaking and entering.

30-14-1. Criminal trespass.

A. Criminal trespass consists of unlawfully entering or remaining upon the lands of another knowing that such consent to enter or remain is denied or withdrawn by the owner or occupant thereof.

B. Criminal trespass also consists of unlawfully entering or remaining upon lands owned, operated or controlled by the state or any of its political subdivisions knowing that consent to enter or remain is denied or withdrawn by the custodian thereof.

C. Any person who enters upon the lands of another without prior permission and injures, damages or destroys any part of the realty or its improvements, including buildings, structures, trees, shrubs or other natural features, is guilty of a misdemeanor.

D. Whoever commits criminal trespass is guilty of a misdemeanor.

History: 1953 Comp., § 40A-1-1, enacted by Laws 1963, ch. 303, § 14-1; 1975, ch. 52, § 1; 1979, ch. 186, § 1; 1981, ch. 34, § 1; 1983, ch. 27, § 2.

The 1979 amendment added Subsection C, redesignated former Subsection C as Subsection D, deleted "petty" preceding "misdemeanor" near the end of Subsection D and made other minor changes.

The 1981 amendment deleted "and with malicious intent" preceding "entering or remaining" near the beginning of Subsections A and B and inserted "petty" preceding "misdemeanor" near the end of Subsections C and D.

The 1983 amendment deleted "petty" preceding "misdemeanor" in Subsections C and D.

Effective dates. — Laws 1981, ch. 34, contains no effective date provision, but was enacted at the session which adjourned on March 21, 1981. See N.M. Const., art. IV, § 23.

Laws 1983, ch. 27, contains no effective date provision, but was enacted at the session which adjourned on March 19, 1983. See N.M. Const., art. IV, § 23.

When one commits burglary of dwelling house one commits criminal trespass based on that entry. *State v. Ruiz*, 94 N.M. 771, 617 P.2d 160 (Ct. App. 1980).

By unlawfully entering lands of another. — The only "act" involved in criminal trespass, as a lesser offense included within burglary of a dwelling house, is entry upon the lands of another, which requires a "malicious intent." *State v. Ruiz*, 94 N.M. 771, 617 P.2d 160 (Ct. App. 1980).

Unlawful entry is entry not authorized by law, without excuse or justification. *State v. Ruiz*, 94 N.M. 771, 617 P.2d 160 (Ct. App. 1980).

"Lands," in Subsection A, includes buildings and fixtures and is synonymous with real property.

State v. Ruiz, 94 N.M. 771, 617 P.2d 160 (Ct. App. 1980).

Damage to property not required to show malicious intent. — While damage to property would be evidence of malicious intent, such is not required inasmuch as malicious intent may be established by evidence of an intent to vex or annoy or do a wrongful

act. State v. Ruiz, 94 N.M. 771, 617 P.2d 160 (Ct. App. 1980).

Am. Jur. 2d, A.L.R. and C.J.S. references. Liability of private citizen, calling on police for assistance after disturbance or trespass, for false arrest by officer, 98 A.L.R.3d 542.

30-14-1.1. Types of trespass; injury to realty; civil damages.

A. Any person who enters and remains on the lands of another after having been requested to leave is guilty of a misdemeanor.

~~B. Any person who enters upon the lands of another when such lands are posted against trespass at every roadway or apparent way of access is guilty of a misdemeanor.~~

~~C. Any person who drives a vehicle upon the lands of another except through a roadway or other apparent way of access, when such lands are fenced in any manner, is guilty of a misdemeanor.~~

D. In the event any person enters upon the lands of another without prior permission and injures, damages or destroys any part of the realty or its improvements, including buildings, structures, trees, shrubs or other natural features, he shall be liable to the owner, lessee or person in lawful possession for damages in an amount equal to double the amount of the appraised value of the damage of the property injured or destroyed.

History: 1978 Comp., § 30-14-1.1, enacted by Laws 1979, ch. 186, § 2; 1983, ch. 27, § 3.

The 1983 amendment deleted "petty" preceding "misdemeanor" in Subsections A to C.

Effective dates. — Laws 1983, ch. 27, contains no effective date provision, but was enacted at the session which adjourned on March 19, 1983. See N.M. Const., art. IV, § 23.

30-14-5. Repealed.

Repeals. — Laws 1979, ch. 186, § 4, repeals 30-14-5 NMSA 1978, relating to the short title of the Property Posting Act.

~~30-14-6. No trespassing notice; sign contents; posting; requirement; prescribing a penalty for wrongful posting of public lands.~~

~~A. The owner, lessee or person lawfully in possession of real property in New Mexico, except property owned by the state or federal government, desiring to prevent trespass or entry onto the real property shall post notices parallel to and along the exterior boundaries of the property to be posted, at each roadway or other way of access in conspicuous places, and if the property is not fenced, such notices shall be posted every five hundred feet along the exterior boundaries of such land.~~

~~B. The notices posted shall prohibit all persons from trespassing or entering upon the property, without permission of the owner, lessee, person in lawful possession or his agent.~~

~~The notices shall:~~

~~(1) be printed legibly in English;~~

~~(2) be at least one hundred forty-four square inches in size;~~

~~(3) contain the name and address of the person under whose authority the property is posted or the name and address of the person who is authorized to grant permission to enter the property;~~

~~(4) be placed at each roadway or apparent way of access onto the property, in addition to the posting of the boundaries; and~~

~~(5) where applicable, state any specific prohibition, that the posting is directed against, such as "no trespassing," "no hunting," "no fishing," "no digging" or any other specific prohibition.~~

~~C. Any person who posts public lands contrary to state or federal law or regulation is guilty of a petty misdemeanor.~~

History: 1953 Comp., § 40A-14-7, enacted by Laws 1969, ch. 105, § 2; 1979, ch. 186, § 3.

The 1979 amendment substituted "requirement" for "requirements" and added "prescribing a penalty for wrongful posting of public lands" in the catchline, deleted "at conspicuous places, at a distance apart of not more than" from the end of Subsection A and former Paragraphs (1) and (2) thereunder, substituted

the present provisions following "property to be posted," substituted "be at least one hundred forty-four square inches in size" for "be at least one foot high by two feet long" in Subsection B(2) and added Subsection C.

Repealing clauses. — Laws 1979, ch. 186, § 4, repeals 30-14-5 and 30-14-7 NMSA 1978.

30-14-7. Repealed.

Repeals. — Laws 1979, ch. 186, § 4, repeals 30-14-7 NMSA 1978, relating to penalties for trespassing and double damages for injury to realty.

30-14-8. Breaking and entering.

A. Breaking and entering consists of the unauthorized entry of any vehicle, watercraft, aircraft, dwelling or other structure, movable or immovable, where entry is obtained by fraud or deception, or by the breaking or dismantling of any part of the vehicle, watercraft, aircraft, dwelling or other structure, or by the breaking or dismantling of any device used to secure the vehicle, watercraft, aircraft, dwelling or other structure.

B. Whoever commits breaking and entering is guilty of a fourth degree felony.

History: Laws 1981, ch. 34, § 2.

Effective dates. — Laws 1981, ch. 34, contains no effective date provision, but was enacted at the session

which adjourned on March 21, 1981. See N.M. Const., art. IV, § 23.

ARTICLE 15

Property Damage

Sec.

30-15-5. Damaging caves or caverns unlawful.

30-15-6. Penalty.

30-15-1. Criminal damage to property.

Am. Jur. 2d, A.L.R. and C.J.S. references.

Liability for damage to automobile left in parking lot or garage. 13 A.L.R.4th 442.

30-15-4. Desecration of a church.

Am. Jur. 2d, A.L.R. and C.J.S. references. — Validity and construction of statute or ordinance

prohibiting desecration of church, 90 A.L.R.3d 1119.

30-15-5. Damaging caves or caverns unlawful.

It shall be unlawful for any person, without prior permission of the federal, state or private land owner, to willfully or knowingly break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, mutilate, injure, detach, remove, displace, mar or harm any natural material found in any cave or cavern, such as stalactites, stalagmites, helictites, anthodites, gypsum flowers or needles, flowstone, draperies, columns, tufa dams, clay or mud formations or concretions, or other similar crystalline mineral formations or otherwise; to kill, harm or in any manner or degree disturb any plant or animal life found therein; to otherwise disturb or alter the natural conditions of such cave or cavern through the disposal therein of any solid or liquid materials such as refuse, food, containers or fuel of any nature, whether or not malice is intended; to disturb, excavate,

Alaska State Legislature



REPRESENTATIVE

ROBERT H. "BOB" BETTISWORTH

P.O. BOX 80288
COLLEGE, ALASKA 99708

POUCH V
JUNEAU, ALASKA 99811

October 13, 1983

Senator Jan Faiks
Pouch V, Capitol Building
Juneau, Alaska 99811

Dear Senator Faiks,

In reference to your letter of September 26th, none of my constituents have expressed any problems with regard to encountering "No Trespassing" signs on public lands owned by the State of Alaska. Apparently Representative Ringstad hasn't heard any such complaints either.

Your effort to determine what other states are doing to identify who or what agency is posting the land certainly should be pursued. The public would be better served with some requirement in place to place a burden on the poster to identify themselves. I find no problem with implementing such a plan once we have been instructed by other jurisdictions as to the ways and means of doing so without making mistakes. The suggestion about providing information on public easements or rights of way may be somewhat more difficult to do.

Please let me know what you find out on these issues: they are of great interest to me.

Sincerely,

A handwritten signature in cursive script that reads "Rob Bettisworth".

Rob Bettisworth, Representative
District 20A, Fairbanks

RHB/rob

OFFICER

CHAIRMAN
RULES COMMITTEE

ALASKA 99811

Senate

October 20, 1983

Dan Boots
4031 East 67th
Anchorage, Alaska 99507


Dear Dan:

Attached is Commissioner Wunnicke's reply to the concerns you raised over illegal posting of "No Trespassing" signs. She agrees you have a valid problem and has directed Tom Hawkins, head of the Land and Water Management division, to look into possible solutions.

In the meantime, the October 17th Anchorage Times began an in-depth look at illegal trespassers as well as those who claim they own state land but don't really have title. It certainly appears DNR is aware of the problem and is making a concerted effort to find a long-term solution (I enclosed a copy of the article in case you may not have seen it). If you would like to talk further with Mr. Hawkins about your concerns and experiences, his office is in Anchorage at 555 Cordova Street and the office number is 276-2653.

I'll be back in touch as soon as I hear further from DNR.

Sincerely,


Jan Faiks
Senator

JF:cf
enclosure

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M
JUNEAU, ALASKA 99811
PHONE: 465-2400

October 11, 1983

The Honorable Jan Faiks
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Faiks:

Thank you for your September 29 letter. I agree that the problem outlined is a valid one.

First, let me say that any specific cases of illegal posting of State lands could and should be reported to the Division of Land and Water Management. I have given a copy of your letter to Tom Hawkins, Director of that division, although he would need more information to pursue Mr. Boots' complaint.

On the general issue, I've asked Mr. Hawkins to look into the New Jersey approach, as well as any other ideas his staff may have to deal with access. I understand Michigan has implemented an innovative scheme whereby landowners volunteer to provide both information and access for sportsmen, and they are listed in a directory put together by Fish and Game. That program might have some applicability in Alaska.

I appreciate your bringing this matter to our attention. We will get back to you with more specific information and recommendations as soon as possible.

Sincerely,



Esther C. Wunnicke
Commissioner

cc: Tom Hawkins

MONDAY
MIDDAY

ALASKA'S LARGEST NEWSPAPER

The Anchorage Times

56 pages

69th year

MONDAY EVENING, OCTOBER 17, 1983

25¢

State launches hot pursuit of squatters

by Jeff Bertner
and Pat O'Brien
Times Writers

In a major policy shift, several state agencies have joined both forces and funds to evict trespassers from state-owned lands.

The \$100,000 project to root out private users of public lands has just gotten under way, but already the state is tangling with a number of squatters, bogus miners and other trespassers who refuse to budge.

Alaska's 78 million acres of land unwillingly hosts an estimated 2,500 trespassers, according to early estimates by state officials working on the

First of three parts

project. They are preparing a report to the legislature which catalogues trespass on state lands.

Thomas J. Harkin said his state Division of Land and Water Management have identified "three flavors of trespass:" those who go onto state land to take resources such as gravel or timber; people, companies or local governments causing damage to state land; and the squatters — those who find a patch of state land to their liking and simply build a cabin, usually for weekend or hunting-season use.

Finding the most blatant offenders to evict from state land is part of the project, and the state is using some of its trespass project money for a lawyer.

"Setting the biggest precedent" is the state's goal in choosing which cases to pursue first, said James Barnett, deputy commissioner of natural resources. "The point we want to make is that you don't win from trespassing on state lands."

People often obtain use of the land legally — by getting a mining claim, for example — but then move in, using the claim as a cover for unauthorized homesteading, Barnett said.

Phony miners will be ferreted out and ejected,

Barnett said. Otherwise, "you'll have the whole Anchorage community out there staking claims on their favorite fishing holes."

A lot of people already have private cabins at their favorite public fishing hole, or duck hunting spot, or gold panning creek.

Some of the long-time trespassers have been known to state officials for a quite a while. Only now, with this trespass project, has the state embarked on a singular effort aimed at uprooting them.

A lot of Alaskans would like a piece of wilderness to call home, and for those with initiative,

See Trespassers, page A-18

President is now a candidate

Associated Press

Washington — President Reagan, still refusing to say whether he will run for re-election, became a presidential candidate today "in the eyes of the law" and his campaign chairman said he was "a solid favorite" to win.

The president signed two letters at his desk in the Oval Office. One authorized Sen. Paul Laxalt, R-Nev., to establish a campaign committee. A second informed the Federal Election Commission that he was "hereby authorizing this committee as my principal campaign committee."

While Reagan refused to say whether he will seek a second term, his senior aides and advisers have said they have no doubts.

The president told reporters



Gruening firm was not among original finalists

by David Shoup
Times Writer

The Anchorage architectural firm that designed the troubled Gruening Junior High School was not among the five finalists originally selected for the multi-million-dollar project.

The firm — Lane, Knorr and Plurkett — was one of two companies added to the list of finalists after the original five were chosen.

The man who was in charge of the selection process, Robert H. Taylor, said late last week that the decision to include the additional two firms was made by Taylor, said the committee's former school district superintendent John B. Peper.

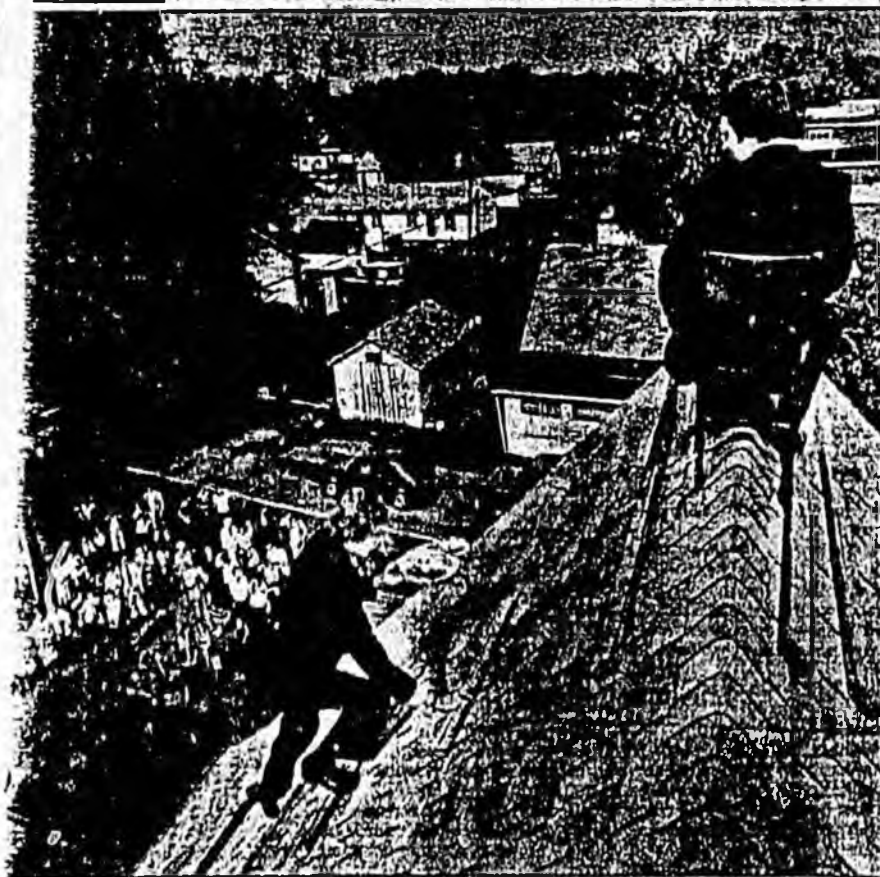
Peper said Sunday night he does not remember making such a decision.

Taylor, now a private engineer in Anchorage, was the school district's facilities coordinator in late 1980 when the selection committee picked five architectural firms from 34 bidders competing for the design contract for the school in Eagle River.

Taylor said the committee's former school district superintendent

See Design, page A-18

District ups insurance — See story, page A-10



FULFILLING HIS VOW

About a year ago, when the Rev. William Tabb took over the Heyworth, Ill., Church of God, he had 11 people show up for services. He vowed then that when there were 75 people in church, he would eat his Sunday dinner

of the roof of the church. Last week there were 77. So, Sunday afternoon, Tabb was served his home-made fried chicken dinner, complete with chocolate cream pie, at a table mounted over a peak of the church roof.

Trespassers evicted

Continued from page A-1

tools, a few dollars and an adventurous spirit, there has always been room in Alaska to head into the backwoods and build a home.

Their makeshift shelters — nothing more than a bare-bones shack with a roof to keep dry — have been upgraded over the years. Tent frames have turned into cabins which in turn have sprawled into miniature resorts. Commercial hunting and fishing guides have established base camps without putting out a cent for the land. And others, under mining laws, filed claims and set up house without ever digging for a nugget.

At one location, trespassers became so numerous that a virtual community was staked out — illegally and, from the looks of it, permanently — on state land in the shadow of Mount McKinley. Officials joked that the burgeoning trespass community would soon be entitled to a public school under state laws, said Margaret Hayes, southcentral land manager.

Instead of getting a school, they've gotten eviction notices — as have scores of other trespassers.

Most trespassers remain firmly in place through the years.

But times have changed and so has state policy. For the first time, bureaucrats are calling settlers on publicly owned lands by their true legal name — trespassers.

Once this project identifies the trespassers, Hawkins said, they will be "asked to leave. Or the land may be offered for sale. In other cases, the person's occupancy may be legitimate, but he will be charged for the materials" he has used.

Ironically, many trespassers are being discovered in the process of cataloging state lands for disposal to the public.

As state officials work to identify which real estate to put into private hands in future land disposal programs, they are finding people who have already appropriated the land for themselves.

Come spring, the state will initiate a homesteading program which will make it easy for nearly anyone to get a piece of Alaska, Hayes said.

you up on a 160-acre homestead. What we can't do is set you up on waterfront or high amenity land."

To get state land, would-be owners have to pay the fair market value or meet homesteading requirements, which don't amount to much more than building a cabin, surveying the land and living on it for 25 of the next 60 months.

Those who have found it easier and cheaper to bypass the rules and simply move onto the land soon will find that maybe they should have followed the rules. At least that's what state officials hope the trespass project accomplishes.

The state must show people that they really can get state land through legitimate legal means and that it's not difficult or expensive, Barnett said. The idea is to discourage trespassers by encouraging people to go through a state land disposal program, he said.

Although many trespassers have been discovered by state lands officials preparing the ostensibly vacant land for private ownership, Hayes said the state learns about trespass cases most frequently from "squealers."

Land owners report the trespassers, Hayes said. They complain, "I paid for mine. Why should they get it free?"

It is difficult to identify owners of many of the unauthorized cabins. But in some of the most blatant cases, trespasser will actually put up their own "No Trespassing" signs on state land, Hayes said.

Those are the ones who usually have taken up permanent residence, and those are the ones who are being targeted for eviction.

NEXT: The trespassers

American charged with espionage

San Francisco — An American was arrested and charged with stealing national defense secrets and selling them to a Polish spy for relay to the Soviet Union, government officials disclosed today.

James Durward Harper IV, of Mountain View was charged with stealing secrets from May 1979 to the present. He is accused of stealing 220,000, according to a report filed by the FBI last week.

insure against design defects

sign contracts to carry \$10 million dollars of "errors and omissions" insurance or else would authorize the district to insure itself for \$10 million for each project.

Now, the district requires architects to carry \$1 million of the insurance.

Freeman said the proposed increase is "a safeguard; it's another precaution." And he said it's a direct result of the controversy surrounding the Gruening

Construction of the \$20 million Eagle River school is behind schedule and the project is the subject of a court battle.

If the school district loses the court fight, it could be hit with a judgment of more than \$10 million.

Freeman said the cost of requiring the higher level of insurance would be significant, but he said the move is prudent in light of the district's exposure to risk as a result of Gruening.

proves the proposal, it would mean an additional insurance cost of \$77,000 for the Mears Junior High School project, which also is under construction.

Mears, near Anchorage's Campbell Lake, carries an estimated total cost of \$30 million and a scheduled completion date of July 1983.

Freeman said it's too late for the district to bolster its protection on the Gruening project.

He said if the school board ap-

...High School project

OFFICIAL BUSINESS
CHAIRMAN
RULES COMMITTEE

FAIKS
JUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Sk.

September 26, 1983

Dan Boots
4031 East 67th
Anchorage, Alaska 99507

Dear Dan:

Thanks so much for coming by the office to talk about possible "No Trespassing" signs on public lands. Based on your personal experiences, your concerns certainly seem valid.

As I mentioned, I have asked the Legislature's Legal Counsel to review the issue, as well as the Department of Natural Resources. The Senate's Research agency is gathering information from other states to learn how they handle the issue. I'll send you what each of these agencies are able to offer.

DNR is also still working on the fact sheet about the Homestead Program. I'll send you one as soon as I receive it.

If in the meantime you've thought of any other way of dealing with the problem, let me know. Otherwise I'll be back in touch as soon as I have some further information.

Sincerely,


Jan Faiks
Senator

JF:cf

4031 E. 67th
99507 U

HW - 349-3201
WK - 563-8102

New York - research "No Trespassing"
signs illegal require a legible name
New Jersey + phone #
or pattern #
or description
people posting signs who do not have
own lands. Told + not accurate access
public

identity the public right away to
state owned lands behind

coal lease - people lease sub-surface
do not own surface.

Houston area has numerous "No Trespassing"
signs

can require
name
legal description

1. get legal analyses from land
2. get analysis from DNR
3. contact Research agency to see what other states require on No Trespassing
4. possibility to draft a bill to solve the problem.

5. ask other Substate legislator

Wanted fact sheet needed

Cheryl
Cheryl
Cheryl
Cheryl
Cheryl

OFFICIAL -

CHAIRMAN
RULES COMMITTEE

POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Senate

September 29, 1983

Billy G. Berrier, Director
Division of Legal Services
Legislative Affairs Agency
Pouch Y
Juneau, Alaska 99811

Dear Mr. *Berrier*:

A constituent has shared with me what appears to be a valid concern. I would appreciate Legal Services' expertise in evaluating our alternatives.

Dan Boots has experienced "No Trespassing" signs posted on state land. He believes people who do not own the land are posting these signs in order to keep others out. He hunts and camps and wants to observe the privacy of those who really do own land, but too often has been chased off from a campsite by the land's "owner", only to find out later that the land was in-fact state land. This is especially the case near Houston.

Mr. Boots indicated New Jersey requires a legible name be printed on all posted "No Trespassing" signs, as well as a telephone number. He believes this might help, or a requirement that a legal description of the private property be posted with the sign. He also suggests that owners, when appropriate, be required to provide information about any public right-of-ways that may exist on private land in order to get to any state-owned land adjacent to the private land.

Could such posting requirements be put into the statutes? I would appreciate an evaluation of the suggestions, as well as any suggestions Legal Services may have as to a course of action. For your information, I have also asked the Department of Natural Resources to review Mr. Boots' concerns.

Thank you for the anticipated help. Please forward your reply to my Anchorage office at 1024 West Sixth Avenue, 99501.

Sincerely,


Jan Faiks
Senator

OFFICIAL

CHAIRMAN
RULES COMMITTEE

FAIKS
POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Senate

September 29, 1983

Commissioner Esther Wunnicke
Department of Natural Resources
Pouch M
Juneau, Alaska 99811

Dear Commissioner Wunnicke:

A constituent has shared with me what appears to be a valid concern. I would appreciate your expertise in evaluating any solutions.

Dan Boots has experienced "No Trespassing" signs posted on state land. He believes people who do not own the land are posting these signs in order to keep others out. He hunts and camps and wants to observe the privacy of those who really do own land, but too often has been chased off from a campsite by the land's "owner", only to find out later that the land was in-fact state land. This is especially the case near Houston.

Mr. Boots indicated New Jersey requires a legible name be printed on all posted "No Trespassing" signs, as well as a telephone number. He believes this might help, or a requirement that a legal description of the private property be posted with the sign. He also suggests that owners, when appropriate, be required to provide information about any public right-of-ways that may exist on private land in order to get to any state-owned land adjacent to the private land.

How can this problem be addressed? Will the department consider such posting requirements? Please let me know what you think can be done. Please forward your reply to my Anchorage office at 1024 West Sixth Avenue, 99501.

Sincerely,



Jay Faiks
Senator

OFFICIAL

CHAIRMAN
RULES COMMITTEE

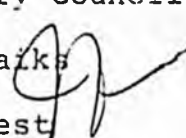
POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Senate

September 26, 1983

MEMORANDUM

TO: Pete Jeans
Senate Advisory Council

FROM: Senator Jan Falks 

SUBJECT: Research Request

A constituent has shared with me what appears to be a valid concern. I would appreciate the Senate Advisory Council's assistance in researching how other states handle the problem.

Dan Boots has experienced "No Trespassing" signs posted on state land. He believes people who do not own the land are posting these signs in order to keep others out. He hunts and camps and wants to observe the privacy of those who really do own land, but too often has been chased off from a campsite by the land's "owner", only to find out later that the land was in-fact state land. This is especially the case near Houston.

Mr. Boots indicated New Jersey requires a legible name be printed on all posted "No Trespassing" signs, as well as a telephone number. He believes this might help, or a requirement that a legal description of the private property be posted with the sign. He also suggests that owners, when appropriate, be required to provide information about any public right-of-ways that may exist on private land in order to get to any state-owned land adjacent to the private land.

I have requested Legal Services and the Department of Natural Services to analyze Mr. Boots' concern and make recommendations on how best to proceed. In the meantime, I would also like to learn what type of posting requirements other states have. Would you please provide me with such information?

Thank you. Please forward the results of your research to my Anchorage office at 1024 West Sixth, 99501.

cc: Senator Jalmar Kerttula

SB 399 - AN ACT RELATING TO TRESPASSING AND POSTING OF LAND

Sponsor: Fiaks by request

SB 399 adds a new chapter to Title 34, Property, which provides private (real) property owners with guidelines for posting trespassing signs to be recognized by law. The new chapter also includes a subsection which makes one guilty of a class B misdemeanor for knowingly posting trespassing signs on public property.

This chapter is an adaptation to the real property trespassing laws of New Mexico and New Hampshire.

Division of Lands, DNR, is authorized by statute to investigate and enforce the laws regarding the trespassing of state land. Additionally, they have a trespassing officer for investigation and enforcement of the laws. There are, however, no Alaska laws either addressing trespassing on private land or what the correct procedures are for posting. The intent of this legislation is to legally recognize the trespass of private property and to provide the real property owner with the correct procedures for posting.

January 23, 1984

MEMORANDUM

TO: Richard Bradley
FROM: Senator Jan Faiks
SUBJECT: No Trespassing Signs

I have decided to proceed with legislation regarding the use of no trespass signs. Will you please draft it with myself as the sponsor and show it by request.

After reviewing statutes from several states, I would like to proceed along the lines of language enacted by New Mexico and New Hampshire. New Mexico states that a property owner desiring to prevent trespass or entry onto real property shall post notices parallel to and along exterior boundaries of the property to be posted, at each roadway or other way of access in conspicuous places, and if the property is not fenced, such notices shall be posted every 500 feet along the exterior boundaries. The notices shall be printed legibly in English, be at least 144 square inches, contain the name and address of the person under whose authority the property is posted, and state any specific prohibition.

According to the Department of Natural Resources, they already have the authority, and even a trespass officer, to handle the complaints they receive about no trespassing signs improperly posted on state lands.

If you have any questions, please give me a call.

Alaska State Legislature

Advisory Council Members

Senator Kerttula, Chairman
Senator Bennett
Senator Fahrenkamp
Senator Vic Fischer



Pouch V
State Capitol
Juneau, Alaska 99811
Phone: (907) 465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: Senator Faiks
Alaska State Legislature

FROM: Bill Hall *WH*
Senior Advisor

DATE: November 18, 1983

RE: Research Request/Posting

In regard to your request for information on posting requirements in other states, Pete Jeans requested that I prepare an analysis of the responses that we have received to date for your consideration. Included with this analysis I am also enclosing for your information all of the relevant material that we have received to date.

As of this date we have received responses from nineteen states. Their posting requirements vary from none as in Georgia to extensive as in Idaho and New Mexico where even access to caves and caverns is governed by state statutes. Keeping in mind that the requirement for posting is an extension of statutes governing trespass, a composite profile of those elements addressed in part or in total by each of the states that responded includes the following.

1. Purpose. The purposes for posting appear to fall into two general categories. One is the general requirement for providing one means of notice for enforcement of basic trespass laws which appear to be designed in part as an expression of the rights of property owners to limit access to their lands.

The second purpose is much more specific and addresses itself to specific types of lands and specific types of activities. Examples of types of lands addressed include private lands, public lands, cultivated lands, enclosed lands, caves and caverns. Examples of types of specific activities include fishing, hunting, trapping, gathering of plants, wood cutting, removal of top soil and trash dumping.

2. Persons Authorized To Post. All of the states specifically define who has the right to post land (ie owners, renters, agents, etc.) and some have statutes specifically prohibiting persons from posting land to which they have no rights.
3. Signs. The purpose of posting is to give notice to the public as to the ownership of lands and activities (including access) that are prohibited or permitted on said lands. The more common means of posting is through the use of signs. However, some state's statutes contain the implication or statement that certain lands are considered to be posted if they are cultivated or enclosed. Other states consider painted fence posts to be acceptable signs of posting. For those states that utilize written signs, the following requirements are usually defined in the legislation.
 - a. size of sign
 - b. size of lettering
 - c. color of sign & lettering
 - d. use of the English language
 - e. location & spacing of signs
 - f. maintenance of signs
 - g. name, address & telephone number of person posting sign
 - h. date of posting
 - i. prohibitions & penalties for defacing & destroying signs
4. Publication of Posting Requirements. One state, Vermont, requires that a notice of posting be filed at the town clerks office in which the land is located. Another state requires that the posting requirements and related trespass laws be printed in the pamphlets containing hunting and fishing regulations.
5. Jurisdictions. Most states define their authority to regulate trespass and posting activities by statute and assign that area of responsibility to various departments for implementation (usually departments responsible for natural resources or fish and game). However, one state leaves that authority to its local municipalities.

It would appear from the foregoing and from the problem identified by your constituent that you might wish to consider a solution that would include the following:

1. Requirement for sign.
2. Definition of size and design of sign.
3. Location and spacing requirements
4. Maintenance of sign.

Senator Faiks
Memorandum
Page 3

5. Inclusion of posting person's name, address & telephone number.
6. Date of posting.
7. Penalties for unauthorized posting.
8. Publication of trespass laws and posting requirements in hunting and fishing regulation booklets.

In regard to posting requirements for public right-of-ways across private lands that provide access to public lands, none of the states that responded had such requirements. This appears to be due in part to the limited amount of public land in many states particularly those on the east coast.

If we can be of any further assistance to you in preparing your response to this problem, please do not hesitate to contact us.

BH;lal

STATES RESPONDING TO REQUEST FOR POSTING LAWS
as of 11/17/83

1. Wisconsin
2. Minnesota
3. Vermont
4. Idaho
5. Georgia
6. Indiana
7. South Dakota
8. Oregon
9. Utah
10. New Mexico
11. Kansas
12. Iowa
13. Delaware
14. Maryland
15. New Hampshire
16. Illinois
17. West Virginia
18. Ohio
19. New Jersey

Sec. 11.46.310. Burglary in the second degree. (a) A person commits the crime of burglary in the second degree if the person enters or remains unlawfully in a building with intent to commit a crime in the building.

(b) Burglary in the second degree is a class C felony. (§ 4 ch 166 SLA 1978)

NOTES TO DECISIONS

For cases construing former law, see notes to AS 11.46.300, analysis line II.

Applied in *McManners v. State*, Ct. App. Op. No. 123 (File No. 6065), 650 P.2d 414 (1982); *Linn v. State*, Ct. App. Op. No. 210 (File Nos. 6163, 6188), 658 P.2d 150 (1983).

Quoted in *Kirby v. State*, Ct. App. Op. No. 117 (File No. 5738), 649 P.2d 963 (1982).

Cited in *Ozenna v. State*, Sup. Ct. Op. No. 2209 (File No. 4748), 619 P.2d 477 (1980); *Zurfluh v. State*, Sup. Ct. Op. No. 2238 (File No. 4697), 620 P.2d 690 (1980); *Kanipe v. State*, Sup. Ct. Op. No. 2242 (File No. 4993), 620 P.2d 678 (1980); *Nix v. State*, Ct. App. Op. No. 008 (File No. 4879), 624 P.2d 825 (1981); *Koteles v. State*, Ct. App. Op. No. 232 (File No. 6782), 660 P.2d 1159 (1983).

Sec. 11.46.320. Criminal trespass in the first degree. (a) A person commits the crime of criminal trespass in the first degree if the person enters or remains unlawfully

- (1) on land with intent to commit a crime on the land; or
- (2) in a dwelling.

(b) Criminal trespass in the first degree is a class A misdemeanor. (§ 4 ch 166 SLA 1978; am § 12 ch 102 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "land" for "real property" at the beginning of paragraph (1) in subsection (a), and substituted "the land" for "that real property" near the end of paragraph (1) in subsection (a).

Collateral references. — 35 Am. Jur. 2d, *Forcible Entry and Detainer*, §§ 58 — 61; 52 Am. Jur. 2d, *Malicious Mischief*, § 1 et seq.; 75 Am. Jur. 2d, *Trespass*, §§ 86 — 94.

36 C.J.S. *Forcible Entry and Detainer*, § 1 et seq.; 54 C.J.S. *Malicious Mischief*, § 1 et seq.; 87 C.J.S. *Trespass* §§ 140 — 165.

Forcible detainer or trespass, where entry was peaceful, 49 ALR 597.

Right to use force to obtain possession of real property to which one is entitled, 141 ALR 273.

Validity, construction, and application of statutes or ordinances penalizing one who enters or remains in dwelling after having been forbidden to do so, 146 ALR 656.

Injunction against repeated or continuing trespasses on real property, 60 ALR2d 310.

Uninvited entry into another's living quarters as invasion of privacy, 56 ALR3d 434.

Sec. 11.46.330. Criminal trespass in the second degree. (a) A person commits the crime of criminal trespass in the second degree if the person enters or remains unlawfully

- (1) in or upon premises; or
- (2) in a propelled vehicle.

contact Roland Shanks
✓ Bob Wilkinson 4528251
DNR
✓ Hermann's office
Public Safety
Hovetski 3428
Falks

MEMORANDUM

TO: Jan
FROM: Sandy
DATE: March 29, 1984
RE: Senate Bill 399-No Trespassing

We need some direction from you on exactly what it is you want to do with the no trespass bill.

Current law provides that if a person enters upon land of another without the intent to commit a crime, and the land is apparently unused and neither fenced or otherwise enclosed, that person is privileged to do so unless notice against trespass is personally communicated to that person by the owner of the land or notice is posted in a conspicuous ~~location~~.

The original bill added a section to Title 34 Property saying that a property owner desiring to prohibit trespass must post the signs every 500 feet if the property is not fenced; if the property is fenced signs must be posted at each roadway or other way of access. Another section provided the description of what must be on each sign.

The proposed Resources CS puts the provisions into Title 11 under the Trespass section. It adds to the current law only by saying that those who do choose to post must include certain things on their signs.

The native corporations oppose even the CS since they estimate it will cost them \$8 for each sign by the time they include the cost of the sign and the labor involved in putting them up.

Perhaps we could just say the notices shall be posted at each roadway or apparent access onto the property, rather than requiring it every 500 feet. That way if the property was not posted or fenced, one could not be guilty of trespassing. If the land were posted, one would know the proper person to contact. Does this accomplish what you want to do?

Does not seem worth it but AOK w me - not a buyer

STATE OF ALASKA
THE LEGISLATURE

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


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

November 10, 1983

SUBJECT: Use of "No Trespassing" signs
(Work Order No. 13-1538)

TO: Senator Jan Faiks

FROM: Richard A. Bradley 
Legislative Counsel

You have sought our comments on a possible solution to the problems resulting from the posting with no trespassing signs of public land as private land.

My initial (albeit jaded) reaction is that no one should expect a law to resolve conduct that is inherently and necessarily lawless. The posting of trespass signs on property not owned by the person posting it is by anyone's definition "lawless".

Having said that, I agree that the legislature could well enact a law that provided that unless a name and address or telephone number were appended to the no trespassing sign, it could be disregarded by users of the property. I suspect that a legal description requirement would provide information so technical as to be essentially devoid of meaning or utility.

On the other hand, as a private landowner myself of waterfront property, I doubt that it is or should be my responsibility to alert others to those accesses to public property (such as the beach). I agree that it is a reasonable goal of government to acquire or reserve access to public property and even to publicize that access.

Or approaching your question from a different direction, it may be contradictory to require owners to alert the public "about any public right-of-ways that may exist on private

Senator Jan Faiks

Page 2

November 10, 1983

land". A lawyer might make the point that a "public right-of-way" may exist on "private land" but the practical reality is that the right-of-way is "public use land". That right of way might be marked by municipal or state officials as a street (if it is used as one) but the problem raised by "section line rights-of-way" may be too difficult to handle in the bill you may be considering.

I agree that the legislature could, if it wished, require owners of property to identify section line rights-of-way that cross their land; the Department of Natural Resources could also undertake the marking of that land, particularly when it is a reasonable access to other state land.

If I may be of further assistance, please advise.

RAB:ojb
J1/025

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

TO: Senate Resources Committee Members
FROM: Senate Resources Committee Staff
RE: March 14 hearing
DATE: March 13, 1984

On Wednesday, March 14 at 3:00 pm in the Beltz Room, the Senate Resources Committee will receive a formal presentation by the Alaska Water Resources Board.

The Alaska Water Resources Board was created by Article 3 of AS 46.15, the Water Use Act of 1966. The Board serves as an advisory group to the Governor on all matters relating to the use and appropriation of water in the State of Alaska. Further information on the Board's duties and accomplishments is attached.

Following the Board's presentation, the following bill will be heard:

CSSB 399 AN ACT RELATING TO TRESPASSING AND POSTING OF LAND.

Under current statute (AS 11.46.350) a person who, without intent to commit a crime on the land, enters or remains upon unimproved and apparently unused land which is not fenced, is privileged to do so unless notice against trespass is personally communicated or notice is posted. To aid persons in obtaining permission to cross posted land, CSSB 399 would require that notices be posted every 500 feet along the exterior boundaries of the property and at each roadway onto the property, and contain the name and address of the person who is authorized to grant permission to enter the property.

SB 301 (FURBEARER MANAGEMENT) is scheduled for Committee action Wednesday. Attached is a memo from Legal addressing the bill's Constitutionality.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MEMORANDUM

TO: Senate Resources Committee Members
FROM: Senate Resources Committee Staff
RE: Committee Meeting, April 9, 1984
DATE: April 5, 1984

On Monday, April 9th at 3:00 pm in the Beltz Room, the Senate Resources Committee will hear the following bills:

SB 399, An Act relating to trespassing and posting of land.

SB 399 was heard by the Resources Committee on March 14. As originally written, the bill would have required that "no trespassing" signs be posted every 500 feet along the exterior boundaries of private property. Testimony presented at the hearing indicated that this stipulation would be extremely difficult to comply with in rural areas.

A Committee Substitute has been prepared in consultation with the Land Manager's Association, the Tanana Chiefs Conference, and the bill sponsor. CSSB 399 (Resources) would aid persons in obtaining permission to cross posted land by requiring that property owners who choose to post their land place notices at each roadway or apparent way of access onto the property, and that the notices contain the name and address of the property owner.

SCR 44, Relating to management of state construction materials.

SCR 44 requests that the Department of Natural Resources inventory and set aside reserves of sand and gravel on a statewide basis, and establish a program of managing sand and gravel resources. At this time, the state has minimal awareness of the location and worth of these resources, yet they are a critical commodity for development and a valuable natural resource. With the exception of inventories conducted by the Department of Transportation for transportation facilities there is no statewide resource inventory for sand and gravel.

Sec. 11.46.310. Burglary in the second degree. (a) A person commits the crime of burglary in the second degree if the person enters or remains unlawfully in a building with intent to commit a crime in the building.

(b) Burglary in the second degree is a class C felony. (§ 4 ch 166 SLA 1978)

NOTES TO DECISIONS

For cases construing former law, see notes to AS 11.46.300, analysis line II.

Applied in *McManners v. State*, Ct. App. Op. No. 123 (File No. 6065), 650 P.2d 414 (1982); *Linn v. State*, Ct. App. Op. No. 210 (File Nos. 6163, 6188), 658 P.2d 150 (1983).

Quoted in *Kirby v. State*, Ct. App. Op. No. 117 (File No. 5738), 649 P.2d 963 (1982).

Cited in *Ozenna v. State*, Sup. Ct. Op. No. 2209 (File No. 4748), 619 P.2d 477 (1980); *Zurfluh v. State*, Sup. Ct. Op. No. 2238 (File No. 4697), 620 P.2d 690 (1980); *Kanipe v. State*, Sup. Ct. Op. No. 2242 (File No. 4993), 620 P.2d 678 (1980); *Nix v. State*, Ct. App. Op. No. 008 (File No. 4879), 624 P.2d 825 (1981); *Koteles v. State*, Ct. App. Op. No. 232 (File No. 6782), 660 P.2d 1199 (1983).

Sec. 11.46.320. Criminal trespass in the first degree. (a) A person commits the crime of criminal trespass in the first degree if the person enters or remains unlawfully

- (1) on land with intent to commit a crime on the land; or
- (2) in a dwelling.

(b) Criminal trespass in the first degree is a class A misdemeanor. (§ 4 ch 166 SLA 1978; am § 12 ch 102 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "land" for "real property" at the beginning of paragraph (1) in subsection (a), and substituted "the land" for "that real property" near the end of paragraph (1) in subsection (a).

Collateral references. — 35 Am. Jur. 2d, *Forcible Entry and Detainer*, §§ 58 — 61; 52 Am. Jur. 2d, *Malicious Mischief*, § 1 et seq.; 75 Am. Jur. 2d, *Trespass*, §§ 86 — 94.

36 C.J.S. *Forcible Entry and Detainer*, § 1 et seq.; 54 C.J.S. *Malicious Mischief*, § 1 et seq.; 87 C.J.S. *Trespass* §§ 140 — 165.

Forcible detainer or trespass, where entry was peaceable, 49 ALR 597.

Right to use force to obtain possession of real property to which one is entitled, 141 ALR 273.

Validity, construction, and application of statutes or ordinances penalizing one who enters or remains in dwelling after having been forbidden to do so, 146 ALR 655.

Injunction against repeated or continuing trespasses on real property, 60 ALR2d 319.

Uninvited entry into another's living quarters as invasion of privacy, 56 ALR3d 434.

Sec. 11.46.330. Criminal trespass in the second degree. (a) A person commits the crime of criminal trespass in the second degree if the person enters or remains unlawfully

- (1) in or upon premises; or
- (2) in a propelled vehicle.

(a) A person who enters or remains on the premises of another person with the intent to commit a crime in

§ 4 ch 166 SLA

State, Sup. Ct. Op. No. 18, 619 P.2d 477; State, Sup. Ct. Op. No. 9, P.2d 690 (1980); State, Ct. Op. No. 2242, 678 (1980); Nix v. State, Ct. Op. No. 28 (File No. 4879), 678 (1980); Nix v. State, Ct. Op. No. 6782, 660 P.2d 477 (1983).

(a) A person who enters or remains on the premises of another person with the intent to commit a crime in the second degree if the

or

misdemeanor.

possession of the premises if the person is entitled, 141

and application of the statute penalizing one who enters or remains on the premises of another person after doing so, 146 ALR

repeated or continued entry on real property, 60

another's living privacy, 56 ALR3d

degree. (a) A person who enters or remains on the premises of another person with the intent to commit a crime in the second degree if

(b) Criminal trespass in the second degree is a class B misdemeanor. (§ 4 ch 166 SLA 1978)

Cross references. — For provisions authorizing arrest without warrant in certain cases where the police officer has reasonable cause to believe that the person has committed a crime under this section, see AS 12.25.030(b).

NOTES TO DECISIONS

Cited in *Moxie v. State*, Ct. App. Op. No. 246 (File No. 7192), 662 P.2d 990 (1983).

Sec. 11.46.340. Defense: emergency use of premises. In a prosecution under AS 11.46.300, 11.46.310, 11.46.320, or 11.46.330(a)(1), it is an affirmative defense that

(1) the entry, use, or occupancy of premises or use of personal property on the premises is for an emergency in the case of immediate and dire need; and

(2) as soon as a reasonably practical after the entry, use, or occupancy, the person contacts the owner of the premises, the owner's agent or, if the owner is unknown, the nearest state or local police agency, and makes a report of the time of the entry, use, or occupancy and any damage to the premises or personal property, unless notice waiving necessity of the report is posted on the premises by the owner or the owner's agent. (§ 4 ch 166 SLA 1978)

Sec. 11.46.350. Definition. (a) As used in AS 11.46.300 — 11.46.350, unless the context requires otherwise, "enter or remain unlawfully" means to

(1) enter or remain in or upon premises or in a propelled vehicle when the premises or propelled vehicle, at the time of the entry or remaining, is not open to the public and when the defendant is not otherwise privileged to do so;

(2) fail to leave premises or a propelled vehicle that is open to the public after being lawfully directed to do so personally by the person in charge; or

(3) enter or remain upon premises or in a propelled vehicle in violation of a provision in an order issued under AS 25.35.010(b) or 25.35.020.

(b) For purposes of this section, a person who, without intent to commit a crime on the land, enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, is privileged to do so unless

(1) notice against trespass is personally communicated to that person by the owner of the land or some other authorized person; or

(2) notice against trespass is given by posting in a reasonably conspicuous manner under the circumstances. (§ 4 ch 166 SLA 1978; am § 9 ch 61 SLA 1982)

S B

401



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 2, 1984

The Honorable Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

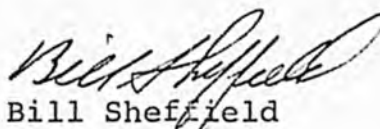
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would create the Toklat River Critical Habitat Area.

The Toklat River supports the largest known population of late fall chum salmon in Alaska. Warm upwelling spring water and ideal spawning, egg incubation, and salmon rearing conditions combine to provide prime irreplaceable habitat for Yukon River fall chum salmon. Population estimates of spawning salmon in the proposed critical habitat area have produced counts as high as 96,500 with an annual average of 31,250 counted. In the last five years an annual average of 100,000 Toklat River fall chum salmon have been harvested by the commercial and subsistence fisheries downstream from the Toklat River on the Tanana and Yukon rivers. This harvest represents a direct average value to the commercial fishermen of over \$500,000 annually and an estimated replacement cost value for the subsistence fisheries of nearly \$700,000 annually, totaling approximately \$1,200,000 annually.

Toklat chum salmon also provide the mainstay winter food supply for a significant portion of the grizzly bear population of the Kantishna drainage. The proposed Toklat River Critical Habitat Area supports a population of overwintering mallards that is believed to be the northernmost sizable concentration in North America. This area also supports large numbers of wolves, fox, coyotes, bald and golden eagles, ravens, owls, river otter, and mink.

The proposed critical habitat area encompasses 2560 acres and is located approximately 84 air miles southwest of Fairbanks. Because the spawning area encompassed by the habitat proposal contributes substantially to the commercial and subsistence salmon harvest of the communities located downstream of the mouth of the Kantishna River on the Tanana and Yukon Rivers, I urge enactment of this legislation. This proposal is made to the legislature under AS 16.20.270, which requires the commissioner of fish and game to submit a list of additional critical habitat areas to the legislature annually.

Sincerely,


Bill Sheffield
Governor

Sec. 16.20.220. Purpose. The purpose of AS 16.20.220 — 16.20.270 is to protect and preserve habitat areas especially crucial to the perpetuation of fish and wildlife, and to restrict all other uses not compatible with that primary purpose. (§ 2 ch 140 SLA 1972)

Sec. 16.20.230. Critical habitat areas established. The following described areas are established as fish and game critical habitat areas:

(1) Port Moller:

(A) Township 50 South, Range 71 West, Seward Meridian

Sections 7—8

Section 14 (not tide or submerged land)

Sections 15—17

Sections 21—23

Section 32

(B) Township 51 South, Range 71 West, Seward Meridian

Section 3 (not tide or submerged land)

Sections 4—5

Section 7

Sections 9—10

Sections 15—17

(C) Township 49 South, Range 73 West, Seward Meridian

Sections 10—11

Section 12 (not tide or submerged land)

Sections 13—16

Section 21

Section 24

Section 28

(D) Township 51 South, Range 72 West, Seward Meridian

Sections 5—8

Sections 11—12

(E) Township 50 South, Range 72 West, Seward Meridian

Sections 18—19

Sections 30—32

(F) Township 50 South, Range 73 West, Seward Meridian

Sections 7—13

Sections 14—17 (not tide or submerged land)

Section 18

(G) Township 50 South, Range 74 West, Seward Meridian

Sections 5—7

Section 8 (not tide or submerged land)

Sections 9—13

Sections 14—16 (not tide or submerged land)

Sections 17—18

Section 20

(H) Township 50 South, Range 75 West, Seward Meridian

Section 1

16.20.230

§ 16.20.230

FISH AND GAME

§ 16.20.230

16.20.270
ial to the
r uses not
72)

following
itat areas:

n

n

n

n

n

n

n

n

Sections 6—7

Section 12

(I) Township 49 South, Range 75 West, Seward Meridian

Section 3

Sections 4—6 (not tide or submerged land)

Sections 7—11

Sections 14—16

Sections 21—32

(J) Township 48 South, Range 75 West, Seward Meridian

Sections 15—18

Section 22

Sections 29—30

Section 31 (not tide or submerged land)

Section 32

(K) Township 48 South, Range 76 West, Seward Meridian

Sections 13—17

Sections 19—23

Sections 25—27

Sections 29—30

Sections 34—35

Section 36 (not tide or submerged land)

(L) Township 50 South, Range 76 West, Seward Meridian

Section 1

Section 3

Section 4 (not tide or submerged land)

Section 9 (not tide or submerged land)

Sections 10—13

Sections 14—16 (not tide or submerged land)

Sections 21—23 (not tide or submerged land)

Sections 24—25

Sections 26—28 (not tide or submerged land)

(M) Township 49 South, Range 76 West, Seward Meridian

Sections 1—4

Sections 7—9

Sections 10—11 (not tide or submerged land)

Sections 12—14

Sections 15—16 (not tide or submerged land)

Sections 17—18

Section 21 (not tide or submerged land)

Section 22

Sections 28—29

Sections 33—34

(N) Township 49 South, Range 77 West, Seward Meridian

Sections 1—2

Sections 4—5

- Sections 7—12
- Sections 13—18 (not tide or submerged land)
- (O) Township 48 South, Range 77 West, Seward Meridian
 - Sections 20—23
 - Sections 26—28
- (P) Township 48 South, Range 78 West, Seward Meridian
 - Sections 26—27
 - Sections 31—34
- (Q) Township 49 South, Range 78 West, Seward Meridian
 - Sections 2—5
 - Sections 8—12
 - Sections 13—16 (not tide or submerged land)
 - Section 17;
- (2) Port Heiden:
 - (A) Township 38 South, Range 59 West, Seward Meridian
 - Sections 13—15 (not tide or submerged land)
 - Section 16
 - Section 21
 - Sections 22—27 (not tide or submerged land)
 - Section 28
 - Sections 33—34
 - Sections 35—36 (not tide or submerged land)
 - (B) Township 38 South, Range 60 West, Seward Meridian
 - Sections 17—19
 - (C) Township 38 South, Range 61 West, Seward Meridian
 - Sections 24—26
 - Section 34
 - (D) Township 39 South, Range 59 West, Seward Meridian
 - Sections 1—2 (not tide or submerged land)
 - Section 3
 - Sections 10—14 (not tide or submerged land)
 - Section 15
 - Sections 19—22
 - Sections 23—25 (not tide or submerged land)
 - Sections 26—29
 - Sections 30—33 (not tide or submerged land)
 - Sections 34—36
 - (E) Township 39 South, Range 60 West, Seward Meridian
 - Sections 18—24
 - Section 25 (not tide or submerged land)
 - Sections 26—27
 - Sections 28—36 (not tide or submerged land)
 - (F) Township 39 South, Range 61 West, Seward Meridian
 - Sections 2—4
 - Sections 8—9

Section 10 (not tide or submerged land)

Sections 11—13

Sections 14—15 (not tide or submerged land)

Sections 16—18

Sections 19—20 (not tide or submerged land)

Section 21

Sections 22—36 (not tide or submerged land)

(G) Township 39 South, Range 62 West, Seward Meridian

Section 13

Sections 23—28

Sections 32—34

Sections 35—36 (not tide or submerged land);

(3) Cinder River:

(A) Township 32 South, Range 54 West, Seward Meridian

Section 29

Sections 31—32

(B) Township 33 South, Range 55 West, Seward Meridian

Sections 1—4

Sections 7—13

Sections 14—17 (not tide or submerged land)

Section 18

(C) Township 33 South, Range 56 West, Seward Meridian

Sections 13—14

Sections 22—23

Sections 24—26 (not tide or submerged land)

Sections 27—29

Sections 31—32

Sections 33—36 (not tide or submerged land)

(D) Township 34 South, Range 56 West, Seward Meridian

Sections 5—7

Section 4 N $\frac{1}{2}$

(E) Township 34 South, Range 57 West, Seward Meridian

Section 1

Section 12;

(4) Egegik:

(A) Township 24 South, Range 51 West, Seward Meridian
(protracted)

Sections 1—2

Section 11 S $\frac{1}{2}$

Section 12 N $\frac{1}{2}$

(B) Township 23 South, Range 51 West, Seward Meridian
(protracted)

Section 13

Sections 24—25

Sections 35—36

- (C) Township 23 South, Range 50 West, Seward Meridian
(protracted)
Section 7
Sections 18—19
Section 30
Section 31 (not tide or submerged land);
(5) Pilot Point:
(A) Township 30 South, Range 52 West, Seward Meridian
(protracted)
Sections 1—3
Section 12
(B) Township 30 South, Range 51 West, Seward Meridian
(protracted)
Sections 5—8
Section 17
(C) Township 31 South, Range 51 West, Seward Meridian
(protracted)
Sections 5—8
Sections 13—15
Sections 17—27
(D) Township 30 South, Range 52 West, Seward Meridian
(protracted)
Sections 27—29
Sections 31—34
(E) Township 31 South, Range 52 West, Seward Meridian
(protracted)
Sections 1—3
Sections 5—6
Sections 11—14
Sections 23—24
(F) Township 30 South, Range 53 West, Seward Meridian
(protracted)
Section 36
(G) Township 31 South, Range 53 West, Seward Meridian
(protracted)
Sections 1—2
Sections 10—11
Sections 12—14 (not tide or submerged land)
Sections 15—16
Sections 20—21
Sections 22—28 (not tide or submerged land)
Sections 29—31
Sections 32—36 (not tide or submerged land)
(H) Township 32 South, Range 54 West, Seward Meridian
(protracted)

Meridian

Section 36;
 (6) Kalgin Island:
 (A) Township 3 North, Range 15 West, Seward Meridian
 Section 7 NW $\frac{1}{4}$
 Section 6 SW $\frac{1}{4}$

Meridian

(B) Township 3 North, Range 16 West, Seward Meridian
 Section 1
 Sections 11—12,
 Section 2 E $\frac{1}{2}$

Meridian

(C) Township 4 North, Range 16 West, Seward Meridian
 Section 35 E $\frac{1}{2}$
 Section 36;

Meridian

(7) Fox River Flats:
 (A) Township 4 South, Range 10 West, Seward Meridian
 Section 20 SE $\frac{1}{4}$ (not tide or submerged land)
 Section 21 S $\frac{1}{2}$ (not tide or submerged land)
 Section 22 S $\frac{1}{2}$
 Section 23 S $\frac{1}{2}$ (not tide or submerged land)
 Sections 25--29
 Sections 33—36

Meridian

(B) Township 4 South, Range 9 West, Seward Meridian
 Section 30 W $\frac{1}{2}$ (not tide or submerged land)

Meridian

(8) Chilkat River: The areas encompassed by a boundary beginning at a point identical with the north corners common to Sections 1 and 2, Township 29 South, Range 56 East, Copper River Meridian, Alaska; thence west a distance of 500 feet along the north boundary of Section 2; thence south along a line parallel to the west boundary of Section 2, Township 29 South, Range 56 East, Copper River Meridian, a distance of approximately one mile to the south boundary of Section 2; thence east a distance of approximately 500 feet to the southeast corner of Section 2; thence south along the east boundary of Section 11, Township 29 South, Range 56 West, Copper River Meridian crossing the Tsirku River, to the first point of intersection with a meander line 500 feet upland from the line of mean high water on the south bank of the Tsirku River; thence easterly along said meander line to its first point of intersection with a western boundary or the northerly extension of the western boundary of U.S. Survey 786; thence to the northwest corner of U.S. Survey 786; thence east 2,640 feet to the northeast corner of U.S. Survey 786; thence south along the east boundary to U.S. Survey 786 to its intersection with the section line common to Sections 17 and 20 of Township 29 South, Range 57 East, Copper River Meridian; thence east along said section line to its first point of intersection with a meander line running 500 feet upland from the mean high water mark on the west bank of the Chilkat River; thence meandering in a southeasterly direction along a line 500 feet upland from the mean high water mark on the southeast bank of the Chilkat

Meridian

Meridian

Meridian

River to its first point of intersection with the section line common to Sections 21 and 28 of Township 29 South, Range 57 East, Copper River Meridian; thence east along said section line to the corner common to Sections 21, 22, 27 and 28, Township 29 South, Range 57 East, Copper River Meridian; thence north along section lines to the point of intersection with the Haines Highway right-of-way; thence northwesterly along the southwest boundary of said highway right-of-way to the point of intersection with the north boundary of Section 6, Township 29 South, Range 57 East, Copper River Meridian; thence west along section lines to the point of beginning, comprising 4,800 acres, more or less.

(9) Kachemak Bay:

(A) Township 4 South, Range 10 West, Seward Meridian (only tide and submerged land and waters)

(B) Township 5 South, Range 10 West, Seward Meridian (only tide and submerged land and waters)

(C) Township 5 South, Range 11 West, Seward Meridian (only tide and submerged land and waters)

(D) Township 5 South, Range 12 West, Seward Meridian (only tide and submerged land and waters)

(E) Township 6 South, Range 11 West, Seward Meridian (only tide and submerged land and waters)

(F) Township 6 South, Range 12 West, Seward Meridian (only tide and submerged land and waters)

(G) Township 6 South, Range 13 West, Seward Meridian (only tide and submerged land and waters)

(H) Township 6 South, Range 14 West, Seward Meridian (only tide and submerged land and waters)

(I) Township 7 South, Range 11 West, Seward Meridian (only tide and submerged land and waters)

(J) Township 7 South, Range 12 West, Seward Meridian (only tide and submerged land and waters)

(K) Township 7 South, Range 13 West, Seward Meridian (only tide and submerged land and waters)

(L) Township 7 South, Range 14 West, Seward Meridian (only tide and submerged land and waters)

(M) Township 8 South, Range 12 West, Seward Meridian (only tide and submerged land and waters)

(N) Township 8 South, Range 13 West, Seward Meridian (only tide and submerged land and waters)

(O) Township 8 South, Range 14 West, Seward Meridian (only tide and submerged land and waters)

(P) Township 9 South, Range 14 South, Seward Meridian (only tide and submerged land and waters)

(Q) Township 9 South, Range 15 South, Seward Meridian (only tide and submerged land and waters)

ommon to
per River
ommon to
st, Copper
t of inter-
westerly
the point
nship 29
along sec-
, more or

only tide

only tide

only tide

only tide

only tide

only tide

only tide

only tide

only tide

only tide

only tide

only tide

only tide

only tide

only tide

only tide

only tide

(R) Township 5 South, Range 15 West, Seward Meridian (including all tide and submerged land and waters east of a line from Anchor Point to Point Pogibshi)

(S) Township 6 South, Range 15 West, Seward Meridian (including all tide and submerged land and waters east of a line from Anchor Point to Point Pogibshi)

(T) Township 7 South, Range 15 West, Seward Meridian (including all tide and submerged land and waters east of a line from Anchor Point to Point Pogibshi)

(U) Township 8 South, Range 15 West, Seward Meridian (including all tide and submerged land and waters east of a line from Anchor Point to Point Pogibshi)

(10) Clam Gulch: All tide and submerged land to the minus five foot elevation, from Cape Kasilof to Happy Valley, contained in the following description:

(A) Township 3 North, Range 12 West, Seward Meridian Sections 9, 16, 21, 28, 33

(B) Township 2 North, Range 12 West, Seward Meridian Sections 4, 8, 9, 17, 20, 29, 31, 32

(C) Township 1 North, Range 12 West, Seward Meridian Sections 6—7

(D) Township 1 North, Range 13 West, Seward Meridian Sections 12—14, 22, 23, 27, 33, 34

(E) Township 1 South, Range 13 West, Seward Meridian Sections 5—7

(F) Township 1 South, Range 14 West, Seward Meridian Sections 12—14, 23, 26—27, 33—34

(G) Township 2 South, Range 14 West, Seward Meridian Sections 4, 8—9, 17, 20, 29, 32

(H) Township 3 South, Range 14 West, Seward Meridian Sections 5, 6, and that portion of Section 7 lying north of Happy Creek.

(11) Copper River Delta: All public land, tideland, submerged land, and water contained in the following description: Beginning at a point on the south edge of the Copper River Highway right-of-way 200' west of its intersection with the Eyak Trail trailhead; thence southwesterly 200' west of the Eyak Trail and parallel to it approximately 4 miles to the mean high tide line; thence southwesterly along the mean high tide line to Point Whitshed; thence northwesterly along the mean high tide line to a point of intersection at the west edge of Section 21, T16S, R4W, C.R.M. and the mean high tide line at the mouth of Orca Inlet; thence westerly a distance of approximately 3 miles to the northeast tip of Little Mummy Island; thence southwesterly a distance of approximately 4 miles to the intersection of the south edge of Section 33, T16S, R5W, C.R.M. and the mean high tide line; thence along the mean high tide line on the east portion of Hinchinbrook Island, including Boswell Bay to Point Bentinck; thence S.68°E. approximately 57

miles to a point of intersection with the protracted boundary line common between R4E and R5E, C.R.M.; thence N.13°E. approximately 10 miles to Palm Point; thence northwesterly along the mean high tide line to a point of intersection with the west boundary line of Section 25, T19S, R4E, C.R.M. to a point of intersection with the mean high tide on the north shore of Softuk Bar; thence northwesterly to Windy Point; thence due east approximately 1.1 miles to the 200 foot contour; thence northerly along the 200 foot contour around Ragged Mountain, easterly and northerly along the eastern shore of Martin and Little Martin lakes to a point 4 miles due south of Bridge No. 227 on the Proposed Bering River Highway; thence north to Bridge No. 227; thence westerly along the south edge of the Bering River Highway to its junction with the Copper River Highway; thence, westerly along the south edge of the Copper River Highway to the point of beginning; excluding all areas within the Cordova Airport Boundaries. (§ 2 ch 140 SLA 1972; am § 2 ch 117 SLA 1974; am § 1 ch 31 SLA 1976; am § 1 ch 93 SLA 1978)

Editor's notes. — Section 2, ch. 31, SLA 1976, provides: "Nothing in this designation alters existing rights of access to set net site leases."

Section 3, ch. 31, SLA 1976 provides: "It

is not the intent of this Act to in any manner change the fishing rights of set net operators that have set net leases within the area described in AS 16.20.230."

Sec. 16.20.240. Regulations. The Board of Fisheries and the Board of Game, where appropriate, shall adopt regulations they consider advisable for conservation and protection purposes governing the taking of fish and game in state fish and game critical habitat areas. (§ 2 ch 140 SLA 1972; am § 27 ch 206 SLA 1975)

Sec. 16.20.250. Multiple land use. Before the use, lease or other disposal of land under private ownership or state jurisdiction and control, within state fish and game critical habitat areas created under this chapter, the person or responsible state department or agency shall notify the commissioner of fish and game. The commissioner shall acknowledge receipt of notice by return mail. (§ 2 ch 140 SLA 1972)

Sec. 16.20.260. Submission of plans and specifications. (a) When a board determines that the following information is required, it shall instruct the commissioner, in the letter of acknowledgment, to require the person or governmental agency to submit:

- (1) full plans for the anticipated use;
- (2) full plans and specifications of proposed construction work;
- (3) complete plans and specifications for the proper protection of fish and game; and
- (4) the approximate date when the construction or work is to commence.

(b) the board shall ¹²⁸ require the person or governmental agency to obtain the written approval of the commissioner as to the sufficiency of the plans or specifications before construction is commenced.

S B

407

SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: *SB 407*

BILL NAME: *Prevention and abatement of water pollution*

SPONSOR(S): *Jakubowski*

RELATED BILLS PENDING:

DATE INTRODUCED: *2-6-84*

*HB 580 - Ringstad
Resources 2/6/84*

REFERRALS: *Resources*

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



407

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

Early 70's

SB 407 "AN ACT RELATING TO THE PREVENTION AND ABATEMENT OF WATER POLLUTION"

REASON FOR LEGISLATION: TO ADDRESS THE LONG-STANDING PROBLEM IN THE STATE OF THE INCORRECT CLASSIFICATION OF THE STATE'S STREAMS. IN THE EARLY 1970'S, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION CLASSIFIED ALL OF THE STATE'S WATERS AS SUITABLE FOR DRINKING WATER WITH THE IDEA THAT AT A LATER TIME WHEN ADEQUATE INFORMATION WAS GATHERED, THE STREAMS WOULD BE RECLASSIFIED INTO MORE APPROPRIATE CLASSIFICATIONS. SENATE BILL 407 WOULD GIVE MORE DIRECTION TO DEC FOR CLASSIFICATION CRITERIA. (REMEMBER, EPA HAS MADE IT NEARLY IMPOSSIBLE TO RECLASSIFY STREAMS).

- (1) The bill lists criteria which the Department must consider in classifying streams. These criteria include mineral potential, fish, recreation, drinking water, agriculture, etc.
- (2) The bill establishes a special placer mining classification. This means that a stream which is suitable for placer mining use cannot be degraded so that placer ^{minerals} mining cannot use the water.
- *** (3) The most promising aspects of SB 407 lie with management plans for basins or mining districts to resolve conflicts and maximize uses. This approach would organize piecemeal efforts and map out mining, recreational and other use plans for an identifiable area.

Bob Warren - Environmental Center - Requires diligence
THE RESOURCES COMMITTEE SUBSTITUTE MUST BE ADOPTED. THERE IS A LETTER OF INTENT.