

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

2902 SRES HB 576 - HB 624 2902

Technical Amendment to HB 576 and/or SB 442

AMEND CSHB 576 (RES), PAGE 1, LINE 14:

Add immediately before the words, "The commissioner" in Sec. 2(a)
the following clause:

"Subject to the terms and conditions of Paragraph 19(B) of
that certain agreement entitled, '1982 CNI Settlement Agreement'," [t]he

not adopted

March 16, 1984

The Honorable Albert Adams
Chairman, House Finance Committee
Alaska State House of Representatives
Pouch V
Juneau, AK 99811

Re: CSHB 576 (grant of state land
to City of Whittier)

Dear Representative Adams:

This letter is to bring to your attention possible constitutional problems with CSHB 576 ("An Act relating to a grant of state land to the City of Whittier"), which has been referred to the Finance Committee. The most serious question is whether this bill violates the state constitutional prohibition against "local and special" legislation. Article II, section 19, of the Alaska Constitution provides as follows:

The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. Local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected.

CSHB 576 requires the commissioner of natural resources to grant 600 acres of state land to the City of Whittier because "the City of Whittier is uniquely lacking in available private land." In Abrams v. State, 534 P.2d 91 (Alaska 1975), the Alaska Supreme Court held that legislation is not "local" merely because it operates on only a limited number of geographical areas, rather than on a statewide geographical basis. 534 P.2d at 94. Instead, the test for whether legislation is local and special is whether the legislation is "reasonably related to a matter of common interest to the whole state." It is quite doubtful that the amount of private land available in the City of Whittier is of statewide interest. Nonetheless, local and special acts are prohibited only if "a general act can be made applicable." Thus, the question is whether the problem faced by the City of Whittier can be resolved by a general act.

MAR 30 1984

The Honorable Albert Adams, Chairman
House Finance Committee
Re: CSHB 576

March 16, 1984
Page 2

From the Department of Natural Resources, I have learned that the City of Whittier's predicament is largely the result of the fact that it did not receive any land under AS 29.18.190 -- 29.18.200 or AS 29.18.202 because there was no "vacant, unappropriated, unreserved state land" located within its boundaries. The Department of Natural Resources has also informed me that the City of Whittier is not unique in this respect. There are other cities that also did not receive any land under these statutes, or received only a negligible amount of land from the state.

This suggests that the problem faced by the City of Whittier can be resolved by general legislation that addresses the problem of all cities that did not receive any land, or received only a negligible amount of land, under the entitlement statutes. One form of such legislation would be a law requiring the Department of Natural Resources to grant to all such cities a certain percentage of the state land that becomes available for disposition in the vicinity of the city. Another form of general legislation addressing this problem would be a law requiring the payment of money by the state to these cities for the deficiency of suitable land. This would be similar to AS 29.18.208, which requires such payment to boroughs and unified municipalities. These forms of legislation would not only constitute general acts, but would also avoid the initial problem of being local or special legislation because there is a statewide interest in addressing the problems faced by an entire group of similarly situated cities.

There is one other potential constitutional issue raised by this bill, although it is not of the same magnitude as the local and special legislation problem. In Thomas v. Bailey, 595 P.2d 1 (Alaska 1979), the Alaska Supreme Court concluded that the word "appropriations" includes dispositions of land, as well as of money. 595 P.2d at 7. This conclusion was reached in the context of determining whether the Beirne Initiative was an impermissible appropriation under article XI, section 7, of the Alaska Constitution, which prohibits using an initiative to make appropriations. The court could logically give "appropriations" the same definition for purposes of article II, section 13, which states that "[b]ills for appropriations shall be confined to appropriations." Accordingly, it is possible that paragraphs (c) and (d) cannot be included in this bill, even if the local and special legislation problem were overcome, because these paragraphs arguably set out impermissible riders on the "appropriation." More significantly, this analysis would make it impermissible to include this bill in another bill relating to public lands.

Whittier's
office
doesn't
entirely
agree
-MOK

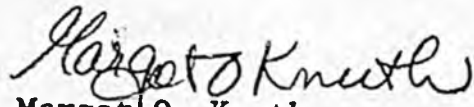
The Honorable Albert Adams, Chairman
House Finance Committee
Re: CSHB 576

March 16, 1984
Page 3

Please note that these comments do not represent the Administration's policy posture on this bill; rather, they indicate the constitutional issues that are presented by the bill in its current form.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Margot O. Knuth
Assistant Attorney General

MOK:dlm

cc: Arthur H. Peterson
Assistant Attorney General

Contact DUK
Cato's office

Alaska State Legislature



House of Representatives

COMMITTEES
—
CHAIRMAN
HOUSE TRANSPORTATION
—
MEMBER
COALITION POLICY COMMITTEE
HOUSE HEALTH EDUCATION
AND
SOCIAL SERVICES

*Stavros
response*

REPRESENTATIVE
BETTE CATO
DISTRICT 6
BOX 775
VALDEZ, ALASKA 99686
(907) 835-4568
WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4858
(907) 586-2660

January 25, 1984

Senator Bettye Fahrenkamp
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

Enclosed for your information is City of Whittier Resolution
No. 1-19-84.

Whittier has no land base at the present time. The proposed
land acquisition will go a long way toward making a planned,
well developed city with self-bonding capacity.

We would greatly appreciate your support in our attempt to
make the City of Whittier a viable, self-sufficient community.

Sincerely,

Bette

Representative Bette Cato
District 6

BC/ke
Encls.

JAN 27 1984

RESOLUTION NO. 1-19-84

A Resolution requesting the State Legislature act to convey certain lands to the City of Whittier.

- WHEREAS: Whittier has an extremely limited land base to enable future community growth, (with exception of several small tracts of land less than fifteen acres). All available lands have been developed or are in the hands and restrictive ownership of the Alaska Railroad or U.S. Army, and
- WHEREAS: The City needs to have maximum possible control over the remaining developable land to provide any growth, and
- WHEREAS: The only land base the City has is lands purchased from the GSA at the time the Army terminated their interest in the area, and
- WHEREAS: The State Department of Natural Resources is planning a land disposal of two tracts of land, (the only developable lands within the City limits) in a manner that would take the only remaining lands and put that land in the hands of speculators, and
- WHEREAS: The City has a Master Plan for a Planned Community in the areas of the proposed land disposal,
- NOW THEREFORE BE IT RESOLVED that the State legislature act to transfer these lands to the City of Whittier to develop into a Planned Community to enhance the Harbor areas and the beautiful Gateway to Prince William Sound.

PASSED AND APPROVED by a duly constituted quorum of the City Council of Whittier, Alaska this 19 day of January, 1984.

ATTEST:

William Knight
Mayor

Brenda Sullivan
Acting City Clerk

Ms. Hayes
September 20, 1983
Page 5

In summary, the Division requests that the following receive consideration in relation to the Whittier Subdivision and Shotgun Cove proposals:

Transfer to ownership of the City of Whittier

Applicable zoning and planning powers of the City of Whittier

A landward buffer zone a minimum of 50 feet in width from the mean high water level

The Whittier Subdivision disposal occur prior to the Shotgun Cove disposal and both be coordinated with the Shotgun Cove road and harbor project

A requirement for low density year-round residential use

The impact on municipal services

The Department has minimal comments on the Poe Bay disposal. Major concerns are potential service delivery and secondary impacts on Whittier and potential conflicts with high recreational use of this area.

We appreciate the opportunity to comment and would request some indication by phone or letter as to your thoughts on the views presented here. We look forward to coordinating with you in the near future.

Sincerely,



Nelda Warkentin
Acting Planning Supervisor

cc: ✓ Department of Natural Resources

Linda Freed, Community Planning Department
Kodiak Island Borough

Paul Mollinex, City Manager
City of Whittier

RECEIVED DEC 16 1983

Alaska State Legislature

COMMITTEES

- Chairman — House Resources Committee
- Chairman — REAA Budget Oversight Committee
- Member — House State Affairs
- DOT — Finance Sub Committee

Write in Sans or
 Point
 State Capital
 Bureau Alaska 99501
 Phone 907-465-4901
 465-4940

House of Representatives

Home PO Box 355
 Juneau Alaska 99801

Dick Shultz

December 15, 1983

Ms. Margaret J. Hayes, District Manager
 Alaska Department of Natural Resources
 Division of Land Management
 3601 C Street, Pouch 7-005
 Anchorage, Alaska 99510

Dear Ms. Hayes,

As you may or may not be aware, I have, as Co-Chairman of the House Resources Committee, been a constant and outspoken critic of Alaska's Land Disposal efforts. As a rural legislator, I have seen lands opened and ultimately placed in the hands of people from far outside the area in which the lands are located. This creates a multitude of problems for the local community, including a lack of planning ability due to the fact that much of this land is acquired for speculation. Additionally, those lands which are occupied put strong demands on local resources for the provision of services such as roads and power.

The City of Whittier is unique to all of Alaska. Whittier has virtually NO LAND BASE and what little land they do have has already been developed or is in the hands of the State, the U.S. Army or the Department of Transportation (for the Alaska Railroad). Even if the State were to acquire the railroad, this would have little effect on Whittier's ability to determine their own destiny.

I STRONGLY support Whittier's request to have all lands within the Whittier Subdivision and all remaining lands in Shotgun Cove transferred to City ownership. A municipal land disposal program would be in the best interests of all concerned, including the State, as it would allow for zoning, road development, power, etc.

Please feel free to contact me should you have questions concerning my position on Land Disposals; in general, or concerning Whittier in particular.

Sincerely,

DICK SHULTZ
 District 17

DS/bh:A23

- cc: 1.) Esther Wunnicke, Commissioner
 Dept. of Natural Resources
 2.) Paul Mullenix, City Manager
 City of Whittier

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

SENATE RESOURCES COMMITTEE
LETTER OF INTENT
FOR
SCS CS HB 576 (Resources)

The legislature, in its passage of SCS CS HB 576 (Resources), finds that special legislation is necessary and appropriate for the resolution of the unique problem of land availability in the City of Whittier. There is no general legislation that could resolve this problem.

Whittier, with a private land base of about 15 acres, is surrounded by state, federal, and native lands. Many of Whittier's residents live in a single building in the city. The presence of reserved federal lands and unavailable state lands, with the absence of a private land base for development, has been a clear obstacle to private settlement in Whittier. SCS CS HB 576 (Resources), while special in its focus, complies with the constitutional mandate for settlement and development of state lands and will provide the City of Whittier with the private lands that it so uniquely needs.

It is the intent of the legislature that the Department of Natural Resources coordinate with the Department of Transportation and Public Facilities to ensure that land needed for the Shotgun Cove Road right-of-way is excluded from those lands granted to the City of Whittier. Design work on the Shotgun Cove Road has been completed by the Department of Transportation and Public Facilities, and land necessary for the right-of-way should remain in State ownership.

Bettye Fahrenkamp
Bettye Fahrenkamp, Chairman
Senate 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

April 4, 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

CSHB 576(Res), An Act relating to a grant of state land to the City of Whittier.

SB 407, An Act relating to the prevention and abatement of water pollution.
TELECONFERENCE

CSHB 576(Res)

Senator Sturgulewski moved CSHB 576(Res) from Committee with individual recommendations. There was no objection.

SB 407

Randy Bayliss, Department of Environmental Conservation, stressed that reclassification of streams is one part of a comprehensive approach to solving the problems of placer miners.

John Reeves, Environmental Field Officer, Department of Environmental Conservation, Fairbanks, provided a detailed historical perspective on placer mining in Alaska.

Del Ackels, Placer Miner from Circle, urged that all uses of water in the state be addressed.

Pedro Dento, Division of Mining, Department of Natural Resources, supported the goals of the bill, recommending the State achieve more stream classification standards.

Joe Vogler, Fairbanks, urged the State to take more control over its air, land, and water management.

Jim Fuksa, Fairbanks, spoke in support of the bill.

Forrest Charlton, Patcher Mining, Anchorage, spoke in support of the bill as one way of providing relief for placer miners.

Bob Warren, Northern Environmental Center, Fairbanks, stated that he did not object to a "placer mining" classification, and recommended that modification procedures be spelled out in the bill.

Henry Warner, President, Placer Miners of Alaska, spoke in support of the Committee Substitute, stating that classification of streams by uses would follow the intent of the Clean Water Act.

Bob Aumiller, Miner's Advocacy Council, Fairbanks, spoke in support of the bill.

Barb Truitt, Koyuk Mining District, spoke in support of the bill.

Jeff Eustis, Trustees for Alaska, Anchorage, stated that SB 407 does not follow the mandate of the Clean Water Act, which puts health considerations before economic considerations.

Roger Burgraff, Fairbanks, spoke in support of SB 407.

Ken Manning, Miners Rights Action Group, Fairbanks, spoke in support of the bill, and addressed how water quality affects industries other than placer mining.

George Seuffert, Yukon Mining Co. of Alaska, Fairbanks, spoke in support of the bill and outlined some of the problems facing small placer mining operations.

Phil Holdsworth, Alaska Miners Association, Juneau, spoke in support of the bill, which would require the State to initiate stream reclassification.

Rose Rybachek, Livengood/Tolvana Mining District, spoke in support of the bill.

Paul Barelka, Fairbanks, spoke of the burden that regulations place on small miners.

Don Stein, Alaska Miners Association, spoke in support of the bill.

Ron Sheardown, Greatland Exploration, Ltd., explained that water samples have been taken at most of Alaska's lakes and streams and urged that this data be used in the stream reclassification process.

Helen Warner, AU Limited Mining, Fairbanks, spoke in support of the bill.

Del Ackels, Circle Mining District, reiterated his support of the bill and discussed the status of the discharge permits issued by the Environmental Protection Agency.

The meeting adjourned at 4:46 pm.

HB 576 was referred to the Rules Committee for placement on the calendar.
The fiscal note appears in House Journal Supplement No. 113.
The letter of intent, signed by Al Adams, Chairman, appears below:

"HOUSE FINANCE COMMITTEE
LETTER OF INTENT
FOR
CSHB 576 (Resources)

The legislature, in its passage of CSHB 576 (Resources), finds that special legislation is necessary and appropriate for the resolution of the unique problem of land availability in the City of Whittier. There is no general legislation that could resolve this problem without creating significant problems that do not now exist and that the legislature does not at this time find appropriate for consideration.

Whittier, with a private land base of about 15 acres, is surrounded by state, federal, and native lands. Many of Whittier's residents live in a single building in the city. The presence of reserved federal lands and unavailable state lands, with the absence of a private land base for development, has been a clear obstacle to private settlement in Whittier. CSHB 576 (Resources), while special in its focus, complies with the constitutional mandate for settlement and development of state lands and will provide the City of Whittier with the private lands that it so uniquely needs."

Whittier Land Grant
(state land)

HOUSE BILL NO. 576, by Reps. Cato, Lindauer & McBride.
Would grant 600 acres of state land to the City of Whittier, stating that "It is the intent of the legislature. . .that a more equitable land base be established for the City of Whittier beyond its present 15 acres of privately owned property." The grant is to include ". . .no less than 400 acres of state land from Shotgun Cove and no less than 200 acres from the Whittier Subdivision." Gives legal description of Shotgun Cove land and Whittier Subdivision land. Does not provide for an effective date (becomes law 90 days after Governor signs bill). Identical to SB 442.

Introduced February 6 and referred to Resources, Finance.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

RECEIVED JAN 19 1984
BILL SHEFFIELD, GOVERNOR

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

January 11, 1984

Mr. Paul Mullenix
City Manager
City of Whittier
P.O. Box 608
Whittier, Alaska 99693

Dear Mr. Mullenix:


I appreciated your visit in November with Mr. Wheelright, Ms. Brown, Mr. Wootten, and Mr. Wardlow to discuss the possible conveyance of State lands to the City of Whittier. I have reviewed some of the issues and am able now to respond to your inquiries.

The City of Whittier, as you know, has no municipal entitlement, and I do not see any way that the City can become eligible for entitlement lands without major legislative action. Therefore, the options available include State land offerings in the Whittier area and public purpose conveyances of lands to the City for retention. If the City is able to pay for survey costs, the City could conduct an offering of State lands similar to the one at McGrath as we discussed.

The four proposed State land offerings in and near Whittier would expand Whittier's available land base for private ownership, and the State is willing to consider other nominations for State offerings. However, if the City proposes conducting the offerings itself, it will be necessary for you to seek funding for associated costs from the Legislature.

I suggest that you maintain your contacts with the staff of the Division of Land and Water Management, Southcentral District Office. Please contact me if there is anything further I can do.

Sincerely,


Esther C. Wunnicke
Commissioner

cc: Tom Hawkins, Director,
Division of Land and Water Management

WRITTEN SUMMARY OF ORAL TESTIMONY
REGARDING HOUSE BILL 576 SUBMITTED BY
SAMUEL J. BACINO
BEFORE THE HOUSE RESOURCES COMMITTEE
ON MARCH 2, 1984

Mr. Chairman and Members of the Committee:

My name is Samuel J. Bacino. I am Vice President of Land and Natural Resources for Chugach Natives, Inc. I do not have written testimony to submit today, but will be happy to provide to the committee a written summary of my oral testimony as soon as possible.

Chugach Natives, Inc. is one of thirteen regional corporations authorized under the Alaska Native Claims Settlement Act, which was passed in 1971. Our corporation was in a somewhat different situation in that within the Chugach region, very little useable land was available for our selection pursuant to the Claims Act. Because we were very much affected in this respect, CNI initiated informal negotiations in 1972. It was CNI's hope that an equitable agreement would be reached whereby we could select useable lands instead of only mountaintops and glaciers. By 1980, however, this process had not resulted in any agreement.

The Alaska National Interest Lands Conservation Act (ANILCA) became law in 1980. That Act recognized, that if agreement was to be reached, the negotiation process should become more formal in nature. ANILCA directed that a study be initiated designed to identify more suitable lands which could be made available for our selection. Through this study, and the formal negotiations with the federal government which followed, an agreement was executed in early 1983.

One of the terms of the Agreement (entitled 1982 CNI "Settlement Agreement") provided that CNI could select 100 acres in Shotgun Cove. Because the state had already filed a selection on all lands surrounding this area, it was agreed that the state would relinquish 100 acres of its selection in Shotgun Cove to accommodate our own. This scheme made sense. Already the small boat harbor project in Shotgun Cove had been contemplated and it was recognized that certain lands would be necessary for development. Although nothing would preclude the state from making these lands available for development, past state policy has always shown that areas such as this would be disposed of, if at all, as small lots for recreational use.

Now, House Bill 576 proposes that the city of Whittier also have land ownership rights in Shotgun Cove. There is no question but that this legislation will allow for even greater development of this area. CNI plans to take part in this process as a responsible developer. Hopefully the city, CNI, and the state can work together in assuring that these lands will be put to their highest and best use.

Shotgun Cove and Prince William Sound have become increasingly important to the greater Anchorage area for recreation use. This trend will continue. In addition, everyone hopes that recreational pressure on the Kenai Peninsula can be reduced. If Shotgun Cove development is to help achieve this goal, we believe that momentum should not be lost in several areas. First, the small boat harbor must be completed. Second, rail access from Portage to Whittier must be upgraded. Third, an access road from Whittier to the Cove must be constructed. Finally, provision for utility services must be made.

Substantial progress had been made by the legislature and the Administration in pursuing these projects. Chugach Natives, Inc. thanks the legislature for its support in these matters. For our part, we will continue to work with the state and the city to make sure that these important projects are completed.

Thank you for the opportunity to appear before you today and offer our thoughts.

FACT SHEET
February 29, 1984

PROPOSED WHITTIER SMALL BOAT HARBOR

The city of Whittier, located on Passage Canal in Prince William Sound approximately 60 miles south of Anchorage, operates a small boat harbor which was built by the State of Alaska. A planned expansion by the State will provide a total harbor capacity for 300 boats. However, additional moorage demand for up to 500 boats is foreseen for the future. A new small boat harbor ranks very high on the list of community priorities.

The existing small boat harbor cannot be expanded beyond the limits proposed by the State of Alaska. The water immediately seaward of the existing breakwater is too deep for construction of a rubblemound breakwater and waves in Passage Canal regularly exceed the 3-ft. height generally accepted as a practical limit for a floating breakwater. Suitable construction areas near the small airstrip were eliminated because city officials did not feel that they could gain access to the land. No other suitable construction areas have been identified in Passage Canal.

The Port of Whittier was constructed in 1942 by the U.S. Army to serve as a deep water port and supply point for military installations in Alaska. A railroad spur between Whittier and nearby Portage connected the port facility to Alaska's main rail lines. The railroad spur, with over four miles of tunnel, was completed in 1943 under a Corps of Engineers' contract. The Corps aided in reconstruction of the Alaska Railroad freight dock following the 1964 earthquake.

Shotgun Cove, which is five miles from Whittier, offers natural protection from the high waves and winds which plague Passage Canal. Water depths in most areas of Shotgun Cove exceed the practical limit for a conventional breakwater a possibility. Two areas in Shotgun Cove have been selected as potential small boat harbor sites. Preliminary harbor layouts and cost estimates were based on a breakwater design similar to the Bar Point floating breakwater in Ketchikan. The usefulness and practicality of a harbor in Shotgun Cove depends heavily upon construction of an access road.




Dept. of Transportation & Public Facilities

Position Paper

BILL NO: CS HB 576

TITLE: An Act relating to a grant of
State land to the City of Whittier

APPROVED:  R. J. Knapp
Commissioner

DATE: April 2, 1984

Language should be included in CS HB 576 to the effect that since the Department of Transportation and Public Facilities (DOT&PF) has prepared the design for the Shotgun Cove Road, The Department of Natural Resources should coordinate with the DOT&PF to ensure that land needed for road right-of-way be excluded from the grant to the City of Whittier.

Without this language, the State may be put in the position of having to buy back from the City of Whittier, the right-of-way land necessary to build the Shotgun Cove Road.

DRAFT

Offered: 3/5/84
Referred: Finance

Original sponsors: Cato, Lindauer,
McBride and Shultz

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 SCS CS FOR HOUSE BILL NO. 576 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to a grant of state land to the City
7 of Whittier."

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

9 * Section 1. LEGISLATIVE FINDINGS. It is the finding of the legisla-
10 ture in enacting sec. 2 of this Act that the City of Whittier is uniquely
11 lacking in available private land. The legislature seeks to correct this
12 situation by providing a grant of land to the City of Whittier that the
13 state had planned to offer for private ownership.

14 * Sec. 2. (a) The commissioner of natural resources shall grant 600
15 acres of state land to the City of Whittier. The grant shall include no
16 less than 400 acres of state land from Shotgun Cove and no less than 200
17 acres from the Whittier Subdivision.

18 (b) As used in (a) of this section,

19 (1) "Shotgun Cove" means land within sections 10, 11, 14, 15,
20 and 16, Township 8 North, Range 5 East, Seward Meridian;

21 (2) "Whittier Subdivision" means land within sections 8, 9, and
22 17, Township 8 North, Range 5 East, Seward Meridian.

23 (c) Except for land retained by the City of Whittier for ^{community development} [critical
24 and expansion] public purposes, land conveyed to the city under this section and not sold
25 within 10 years of the enactment of this Act reverts to the state unless
26 the commissioner of natural resources finds that the City of Whittier has
27 diligently prepared for a sale of the land. If the commissioner finds that
28 the city has diligently prepared for a sale of the land, the commissioner
29 may extend the deadline for a period determined proper by the commissioner.

1 (d) Sale of land under this section shall occur after public notice
2 and by a competitive method.

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 2, 1984

DATE: March 29, 1984

On Monday, April 2nd, at 3:00 pm in the Beltz Room, the Senate Resources Committee will hear the following bills:

HB 542, An Act relating to leasing land for refuse disposal.

Current statute (AS 38.05.315) allows the Department of Natural Resources to lease land for less than its appraised value to a municipality, a federal agency, an electric or telephone co-op, or a registered non-profit entity. HB 542 would amend this provision to include leases to public utilities in unorganized communities for refuse disposal sites.

CSHB 576 (Res), An Act relating to a grant of state land to the City of Whittier.

CSHB 576 (Res) would grant 600 acres of state land to the City of Whittier for sale to the public. Whittier has an extremely limited land base to enable future community growth. All lands in the City core area have been developed or are in the hands of the Alaska Railroad, the U.S. Army, or the State. Whittier received no entitlement from the State under AS 29.18.190, which allowed municipalities to select 10% of all vacant and unappropriated State land within their boundaries, as when this law was enacted there were no State lands within Whittier's boundaries.

An amendment (attached) will be proposed to clarify that Chugach Natives, Inc. is eligible for 100 acres in the Shotgun Cove area per their 1982 Settlement Agreement.

Alaska State Legislature

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



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

Senate

Committee on Resources

M E M O R A N D U M

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: Committee Meeting, April 4, 1984
TELECONFERENCE

DATE: April 3, 1984

On Wednesday, April 4th at 3:00 pm in the Beltz Room, the Senate Resources Committee will hear the following bills:

CS SB 407 (Resources), An Act relating to the prevention and abatement of water pollution.

CS SB 407 (Resources) addresses the longstanding concerns of placer miners, environmentalists, and governmental agencies relative to the use of water in placer mining. The draft Committee Substitute would establish specific classification categories for waters of the state, and provide criteria for establishing water quality standards for each classification. In addition, a statewide inventory of state waters would be conducted and basinwide management plans would be developed.

This hearing will be teleconferenced to Fairbanks, Fort Yukon and Anchorage.

CS HB 576 (Resources), An Act relating to a grant of state land to the City of Whittier.

CS HB 576 (Resources) is scheduled for committee action. A draft Committee Substitute (which clarifies that the City of Whittier may retain a portion of the grant land for community development and expansion) and a draft Letter of Intent (that addresses the right-of-way for the Shotgun Cove Road) are attached.

Written Summary of Oral Testimony
Regarding CS for House Bill 576 Before the
Senate Resources Committee
Presented on behalf of Chugach Natives, Inc.
By Reed R. Stoops
April 2, 1984

Madam Chairman:

My name is Reed R. Stoops and I am here today on behalf of Chugach Natives, Inc. to present testimony in support of CS HB 576.

Chugach Natives, Inc. was the last of the thirteen regional corporations to receive its land entitlement, due to the small amount of available land within the region on the date of passage of the Alaska Native Claims Settlement Act of 1971. It was not until 1982 that the Chugach Settlement Agreement was ratified by Chugach Natives, Inc., the federal government, and the State of Alaska.

Section 19 (B) of the Settlement Agreement (attached), provides for the selection of 100 acres of land in Shotgun Cove by Chugach Natives, Inc. and the process by which selections will be made.

CS for House Bill 576 provides for an additional 400 acre selection of land in Shotgun Cove by the City of Whittier. Chugach Natives, Inc. supports this grant of land to Whittier as it will allow cooperative future development of Shotgun Cove by CNI and Whittier.

Chugach Natives, Inc. only concern is that the conveyance process take place sequentially in accordance with the Settlement Agreement, that is:

1. Selection of land for public purposes by Whittier under A.S. 38.05.315 immediately adjacent to the the proposed small boat harbor location.
2. Selection by Chugach Natives, Inc. of its 100 acres from the area designated in the Agreement.
3. Selection by Whittier of its 400 acre municipal entitlement.

In discussions with the Department of Natural Resources and the City of Whittier, it has been acknowledged that this is the requisite order of selection and that, upon designation of the proposed small boat harbor location by the Corps of Engineers, the selections will occur within the time deadlines established in the agreement.

Thank you for the opportunity to present the views of Chugach Natives, Inc.

H B

5 8 9

SENATE AMENDMENT # 1

By Phil Ferguson / Josephson

To: _____ SENATE BILL No. _____

To: SCS CSHB HOUSE BILL No. 589 (Fin)

PAGE: 7 LINE: 2

Delete line 2, Renumber following sections accordingly.

Page 7, line 13:

Delete "11", and insert "10".

adopted
leaves Blackmail Clause in



City of Petersburg
P. O. Box 329
Petersburg, Alaska 99833

April 30, 1984

Bettye Fahrenkamp
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Subject: Power Sales Agreements (Tye Lake Hydroelectric Project)

Dear Senator Fahrenkamp:

I am forwarding a copy of Resolution No. 1018-R which was passed and approved by the Petersburg City Council at a special meeting held April 27, 1984.

The Resolution authorized the execution of a short term power sales agreement and further specifies terms under which the Petersburg City Council will approve long term agreements to purchase electricity from the Tye Lake Hydroelectric Project.

The short term agreement provides that Petersburg will pay 5.84¢ per kilowatt hour to purchase power from the Project, but either party may terminate the agreement upon 24 hours written notice.

Section 3 of the Resolution indicates the criteria to be achieved for long term power sales agreements. Petersburg sincerely desires to reach an acceptable long term agreement. We would be grateful for any assistance you may be able to render on our behalf.

Sincerely,

Patricia Curtiss
City Clerk

Enclosure

MAY 3 1984

RESOLUTION NO. 1018-R

A RESOLUTION AUTHORIZING THE EXECUTION OF A SHORT TERM POWER SALES AGREEMENT WITH THE ALASKA POWER AUTHORITY WITH RESPECT TO THE TYEE LAKE HYDROELECTRIC PROJECT.

WHEREAS, the City of Petersburg (hereinafter called the "City") owns and operates an electric utility which is eligible to purchase wholesale electric power and energy produced from the Tyee Lake Hydroelectric Project (hereinafter called the "Project"); and

WHEREAS, the Alaska Power Authority (hereinafter called the "Authority") is capable of producing power from the Project, the components of which include a generating facility at Lake Tyee and transmission lines designed to deliver power from the Project to the cities of Wrangell and Petersburg; and

WHEREAS, officials of the City have negotiated with the Authority for terms and conditions of a short term power sales agreement in the form attached hereto as Exhibit A and incorporated by reference herein (hereinafter called the "Short Term Power Sales Agreement"); and

WHEREAS, a supplementary amendment has been proposed by the Authority which would add the following sentence to Section 2 (b) of the Agreement:

"This agreement shall be of no further force and effect from and after May 2, 1984 if the City has not, prior to said date, executed subject to ratification, or passed an ordinance authorizing a Power Sales Agreement with the Authority in substantially the form adopted by the City of Wrangell on April 12, 1984."

WHEREAS, action taken by the City of Wrangell on April 12, 1984 essentially authorized the execution of long term power sales agreements with the Authority; and

WHEREAS, an advisory question relating to long term arrangements for purchasing power from the Authority was rejected by Petersburg voters by a margin of 611 to 295 at a Special Election held April 17, 1984; and

WHEREAS, it would be contrary to the wishes of a majority of Petersburg voters to adopt long term power sales agreements of the form proposed by the Authority at this particular time; and

WHEREAS, it is deemed to be in the best interest of the City and the Authority to approve and execute the Short Term Power Sales Agreement without the supplementary amendment so that negotiations may continue for long term arrangements; and

WHEREAS, it is the sincere desire of the City to reach an acceptable arrangement for long term agreements to purchase power from the Project.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF PETERSBURG, ALASKA AS FOLLOWS:

Section 1. Approval of Short Term Agreement. The Short Term Power Sales Agreement is hereby approved. Said Agreement shall be in substantially the form attached hereto as Exhibit A with such changes as the City Manager, with the advice of the City's legal counsel, shall approve. The City Manager and City Clerk are hereby authorized and directed to execute the Short Term Power Sales Agreement, for and on behalf of the City.

Section 2. Implementation of Short Term Agreement. The City Manager and all other appropriate officials of the City are hereby authorized and directed to take all steps necessary for the implementation of the Short Term Power Sales Agreement.

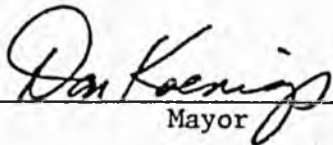
Section 3. Approval of Long Term Agreements. The Mayor and City Manager are hereby authorized and directed to continue negotiations for long term agreements to purchase power from the Tyee Lake Hydroelectric Project. Such negotiations should be guided by the objective to provide Petersburg electric customers with a long term source of stable and reliable power at the lowest possible cost. In this regard, the Petersburg City Council will approve long term power sales agreements if the following criteria can be achieved:

- A. A "postage stamp" rate for project energy so that the wholesale cost of power will be the same for all projects developed under the "Energy Program for Alaska":
- B. A system increment limitation so that allocated debt service will not increase over the term of the power sales agreement;

- C. Transfer of title of the Project to a joint operating agency to be established by Wrangell and Petersburg upon payment of all debt service related to the Project; and
- D. A mechanism to provide more local control over Project operation and maintenance expenses.


Section 4. Notification. The City Clerk is hereby directed to send a copy of this Resolution to the Governor of the State of Alaska, Members of the Alaska Legislature, Members of the Board of Directors of the Alaska Power Authority, Representatives of each Utility to be served by projects developed under the Energy Program for Alaska, and the Executive Director of the Alaska Power Authority.

PASSED and APPROVED by the Mayor and City Council of the City of Petersburg, Alaska at a special meeting of said Council held this 27th day of April, 1984.



Mayor

ATTEST:



City Clerk

3/26/84 Drinich

By appropriating \$210 million to 4 dam pool, removes need for long term power sales agreements which were needed for issuance of long term debt.

The \$210 million pays off existing short term debt on the 4 dams.

Without repeal of blackmail clause, rates would go up even under this version ('cause would have to repay as loan). But, could offer shorter-term contracts that would expire day before blackmail clause effective.

Removes need for \$49 million rate stabilization. Rates could remain as are currently, 'cause State could structure payback to keep rates low.

would necessitate APA signing new agreements w/ communities. (Depending on Terquon's amendment, Petersburg could or can not participate.)

STANDARD



Official Business

Alaska State Legislature

May 1, 1984

Pouch V
State Capitol
Juneau, Alaska 99811

Senator John Sackett
Senator Don Bennett
Co-Chairmen, Senate Finance Committee
Alaska State Legislature

Dear Senator Sackett and Senator Bennett:

The City of Petersburg, in rejecting the power sales agreements with the Alaska Power Authority, has placed a large and unnecessary fiscal liability upon the State of Alaska. Of the five communities to have originally been included in the Four Project Pool, Petersburg is now the only community, that after lengthy negotiations with the Power Authority, has elected not to assume their fair share of a financial obligation to which they had previously made a commitment.

Petersburg's failure to accept the State's proposal is unfair to the State and the remaining four communities of Ketchikan, Wrangell, Kodiak and Valdez/Glennallen; of which, two are neighboring Southeast towns with similar economic interests and concerns. The irony is that Petersburg will undoubtedly realize only too late, that successful long-term generation of power from Lake Tye will serve as a catalyst for economic growth and commercial development in the Wrangell area, while Petersburg's development could possibly fall behind. If this should occur, Petersburg will most likely turn to the State for financial assistance, including requesting reconsideration in purchasing power from Lake Tye under the terms of the original offer.

In fairness to the other communities, the opportunity presently being offered should not be made available to Petersburg once they have made the decision not to accept. It will be a hard lesson to learn for Petersburg, but one that is necessary when placed in a statewide perspective. For the State to allow Petersburg to join the other four communities at any time in the future, at the same or more favorable terms, would be unfair. It would also be a poor precedent for the State to establish.

This year's legislature should consider ways in which any excess costs, incurred by the State as a result of Petersburg's refusal to sign long-term power sales agreements, can be recovered from any future power sales to that City. This needs to be done in a way that the four


MAY 2 1984

Senator Sackett and Senator Bennett
May 1, 1984
Page 2

participants who did enter into good faith negotiations and have accepted long-term agreements are not penalized. Measures must also be provided to deny State assistance in the event Petersburg should request funding for the construction of additional power projects to serve the City. In plain English, any major power development project similar to Tyee in the amount of electricity it would generate for the city of Petersburg may not be considered by the Legislature over the effective life-years of the Tyee project which is estimated for fifty years. But any electrical project of a maintenance nature for the current electrical generation relied upon by Petersburg should not be effected.

Until the unnecessary costs resulting from Petersburg's refusal to participate in Tyee are recovered, Petersburg should be held responsible, and not under any circumstance should they be given another opportunity at the same favorable terms and conditions; nor, should they be assisted in developing other generation capability. Unfortunately, they've shirked their duty at the expense of others and should not be allowed to benefit from their actions.

Sincerely,



Frank R. Ferguson
Alaska State Senator

cc: Governor Sheffield
All Senators
All House Members
Mayor, City of Petersburg
Larry Crawford, APA
Ernie Haugen, Petersburg

Alaska State Legislature

CHAIRMAN

Health, Education & Social Services

FINANCE SUBCOMMITTEES

Health & Social Services

REAA Budget Oversight

Corrections

RULES COMMITTEE



DISTRICT 11
3305 OREGON DRIVE
ANCHORAGE, ALASKA 99503

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3759

Representative Mae Tischer

May 1, 1984

The Honorable Frank Ferguson
Alaska State Senator
Capitol Building
Juneau, Alaska

Dear Senator Ferguson:

Thank you for including me in the circulation of your May 1, 1984, letter to Senators Sackett and Bennett regarding the City of Petersburg's rejection of a power sales agreement with the Alaska Power Authority.

While there is merit in some of your comments contained therein, there are compelling concerns not included in your letter which I feel necessitate mentioning at this time.

Petersburg's "previously made commitment" to assume a financial obligation in regard to the four dam pool was made in good faith on terms that no longer exist. I will state my reasons for believing as I do.

First and foremost, it was the APA that made the decision to expand the Tye project beyond what was originally planned for the benefit of Juneau, thus causing substantial cost increases to the project. The citizens of Petersburg can hardly be held responsible for a decision which they did not make or participate in making.

Second, a fact which is never discussed is the existence of a fifth dam in the Alaska Power Authority pool -- the Sitka project -- which presently contributes to the overall financial obligation of the Authority. Granted, the cost has proved considerably less than the other projects managed by APA. Nonetheless, APA carries the Sitka project loan and, as such, the loan does in fact become part of the overall debt for which Petersburg would be partially responsible if the city signed a power sales agreement with APA.

I dare say neither of the above conditions were a part of the original long term plans under which Petersburg, or other cities for that matter, agreed to negotiate a power sales agreement with the State.

APA has been heavily criticized for its management practices in the past. These past management practices may have very heavily contributed

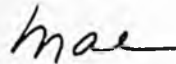
MAY 2 1984

The Honorable Frank Ferguson
May 1, 1984
Page Two

to the "large and unnecessary fiscal liability" to which your letter refers, and to which Petersburg should not be whipped into submission to accept, as your letter suggests, in light of the fact that the conditions have changed considerably. Had APA not arbitrarily caused the cost over-runs, and had all conditions remained constant, then the State would be justified in imposing the sanctions which your letter suggests. However, the plain truth is that all conditions did not remain constant. There were unjustified cost over-runs, and any community would be considered fiscally irresponsible to roll over simply because APA said they must.

Justice would be better served if the State admitted the true problem; paid off the APA's debt, which the State can well afford to do; and get on with encouraging the development of hydro power in every rock and cranny in this State. It's the best investment we can make with our non-renewable resource dollars.

Sincerely,



Mae Tischer
State Representative

cc: Governor Sheffield
All Senators
All Representatives
Don Koenigs, Mayor, City of Petersburg
Larry Crawford, Executive Director, APA
Ernie Haugen, Former State Representative, Petersburg

MT/sg

LETTER OF UNDERSTANDING

The negotiating team representing APA, Ketchikan, Copper Valley Electric Association, Kodiak Electric Association, Petersburg and Wrangell have agreed on the terms and conditions of a power sales agreement incorporating the following:

1. The written and oral understandings of the parties heretofore reached shall be placed in writing in agreed final form, and remaining comments of the parties will be mutually and expeditiously resolved and also incorporated in the agreement.
2. A rate stabilization fund shall be established as proposed in the communities' 17 point proposal funded in part by a State appropriation of \$49,000,000.
3. The system increment proposal of the communities shall also be incorporated in such agreement.

We mutually recognize that certain statutory amendments are required to implement the agreements reached to date.

We expect to conclude draft O & M agreements and interconnection agreements following a mutual review of proposed contract revisions.

We will recommend to our respective boards and councils that the agreements be adopted and that we be authorized to execute them and to assist in the steps necessary to complete the financing.

DATED March 20, 1984

ALASKA POWER AUTHORITY

By: Larry H. Crawford

CITY OF KETCHIKAN

By: Steve Land

COPPER VALLEY ELECTRIC ASSOCIATION

By: J. A. Killin games

CITY OF WRANGELL

By: James Reale

KODIAK ELECTRIC ASSOCIATION

By: David A. Nease

CITY OF PETERSBURG

By: Don Koenigs

Anchorage Caucus
Resolution No. 4

WHEREAS, the Anchorage Caucus of the Alaska Legislature is made up of 10 members of the Senate and 17 members of the House of Representatives elected from Anchorage Area Districts.

WHEREAS, there occasionally arise matters of special concern to members of the Anchorage Caucus about which the Caucus wishes to take a collective position and have that position communicated to those most concerned; and

WHEREAS, one such matter is the construction of the Susitna Hydroelectric Power Project; and

WHEREAS, the significant facts relating to this proposal are as follows:

(a) The Susitna Hydroelectric Power Project is one of the largest and most significant projects for the State of Alaska for the remainder of this century, and

(b) The benefits and consequences of the construction of this project are vital to the continued growth and development of the citizens living in Alaska's Interior and Southcentral areas, and

(c) The amount already spent on this Project is approaching \$100,000,000 with at least \$30,000,000 more being budgeted for the coming fiscal year, and

(d) The construction of the Project is estimated by the Alaska Power Authority to save over \$1,000,000,000 in costs to supply the power needs of Central Alaska when compared with the least costly alternative method for meeting these power needs, and

(e) \$460 million has been spent on the "Four-Dam Pool" hydroelectric projects in the Energy Program for Alaska, which serve less than 10% of the State's population, and

(f) This Project will directly benefit most of the population of the State of Alaska and will indirectly benefit the remaining people of the State, and

(g) The Anchorage-Fairbanks intertie will be completed this year and will be able to distribute Susitna power to 70% of Alaska's citizens, and will be substantially more useful than if Susitna were not built, and

(h) The Alaska Power Authority, in implementing the Energy Program for Alaska, has negotiated power sales agreements for power from the four hydroelectric projects, and those contracts are conditional on repeal of the Susitna Equity Clause.

NOW THEREFORE, BE IT RESOLVED that it is the position of the Anchorage Caucus that the Susitna Hydroelectric Power Project be expedited to the utmost and that the Governor of the State of Alaska, the President of the Senate, and the Speaker of the House of Representatives use the power of their offices to provide the funds and manpower to complete the Project at the earliest possible date.

AND, BE IT RESOLVED the members of the Anchorage Caucus, to advance the unity of purpose of all Alaskans in developing the total electrical power potential of our State, while implementing safeguards to assure construction of a needed and feasible Susitna Hydro Project, will accede to the repeal of the Susitna Equity Clause, only if funds for major hydroelectric projects are constitutionally assured, Susitna is included in the Energy Program for Alaska, and members of the existing "Four-Dam Pool" are contractually obligated to their participation in the program through executed power sales agreements.

BE IT FURTHER RESOLVED that this Resolution be delivered to the Governor, the President of the Senate, and the Speaker of the House in order to impress upon them the urgency of the need for the Project and the unified nature of the support and backing for its early completion.

SUSITNA EQUITY

Fact:

1. \$260 million in grants has already been appropriated by the state for four dams;
2. \$200 million is due on short-term notes in the next 12 months.

Policy Decision: A decision is necessary on the interim financing retirement.

Options:

1. Pay off the \$200 million from general funds and/or the Undistributed Income Account of the Permanent Fund:

A. 4 dam customers will pay operations and maintenance only to Alaska Power Authority which, in turn, is deposited into the General Fund (state law allows APA to collect only O&M and debt service);

B. Susitna Equity clause remains intact;

C. No additional revenues are generated into the General Fund, except operations and maintenance.

2. Pay off the \$200 million with long term bonding:

A. 4 dam customers will pay O&M and debt service to APA which is deposited into the General Fund;

B. Additional revenues are generated for the Alaska Power Authority to retire future added debt, for projects added to the Energy Program.

C. Dams will be fully financed without additional General Fund monies;

D. Creates a "bonding base" to add other projects eg. Bradley Lake and Susitna;

E. For 30 to 35 year bonds with a 50 year power sales agreement means 4 dam customers will be paying off the bonded indebtedness of new projects -- by paying debt service, will help pay for other projects.

F. Leverages the state's equity into larger amount of power development;

G. Removes the Susitna Equity clause to insure power sales agreements

H. Can keep the Susitna Equity clause intact which will provide more costly long term financing, but communities will not voluntarily execute power sales agreements with the clause in place.

RATE STABILIZATION FUND

Policy Decision:

Why \$35 million or \$49 million?

Fact:

APA wants power sales agreements to both protect and realize a return on \$460 million (\$260 million appropriated and \$200 million debt). APA's goal is to have power sale agreements that provide hydro power at no higher cost than the best thermal alternative in those communities.

Why \$35 Million?

Based on computer analysis of load forecasts, \$35 million goes to the bank for a Rate Stabilization Fund. APA will borrow an additional \$12 million (maximum allowed by federal law) for a total of \$47 million in the bank which will be used to subsidize each rate payer so that their electricity equals the projected cost of the thermal alternative.

Why \$49 million?

The additional \$14 million will make the rate payers' electricity approximately 1 1/2¢ lower than thermal alternative.

Susitna Equity Clause not involved in this dialogue -- the Rate Stabilization Fund is demanded by the 4 dam communities.

4 DAM POOL PRICE OF POWER COMPUTATION

Cost of O&M and Inspections
+
Debt Service

X

less Rate Stabilization Fund (state subsidy to balance thermal alternative)

X - Rate Stabilization Fund = cost of electricity 4 dam pool

POLICY DECISION: Constitutional Amendment

As currently written, the proposed constitutional amendment does the following:

1. Allows a dedicated fund (establishing an income stream consisting of 10% of the total revenues generated from non-renewable resources) for specific purposes which are revenue generating and are therefore paid back.

Pros

Makes Susitna easier to build:

A. By providing a source of income for projects meeting specific criteria (for example, 1.2 billion has been appropriated for capital projects this year of which none is for hydro)

B. Can be written to be biased towards Susitna

C. Avoids the spending limit because it would be restricted revenues

D. Isolates a revenue stream consisting of money from both the Legislature and the Governor

E. Makes building Susitna less political year after year

F. Money would be paid back by future generations of Alaskans

G. Isolates a block of money for hydro construction.

Con

A. Establishes a dedicated fund which takes funding decisions away from the Legislature

2. Power Cost Assistance Clause which will make it possible to get reasonable power cost in rural Alaska.

A. Needed for rural support of the amendment

B. Locks the existing Power Cost Assistance statute into the Constitution

C. Legislature maintains control by establishing appropriation level

3. \$100,000.0 threshold for projects.

CURRENT STATUTORY PROVISIONS

Under existing statutes, the following alternatives are possible:

1. Authorize Susitna under the Energy Program for Alaska (no other hydro projects are currently authorized and funded.).

This commits the state to building Susitna (also requires OMB review, power sales agreements, economic feasibility analysis, FERC licenses. It, however, clarifies the commitment to this process).

2. Power Development Fund. This is a state account for building hydro projects (appropriations for the 4 dam pool and intertie have already been deposited into the fund).

Option: Appropriate money into Power Development Fund for building Susitna which will begin building the equity needed to make electricity economically viable for consumers. It will also make possible a combination of long term bonding and state equity (by legislative appropriation).

For example, the Legislature could authorize a deposit of \$1.5 billion into the Power Development Fund and immediately authorize the appropriation of \$200 million from the General Fund. This would be similar to the current deposit arrangement for contributions into the Permanent Fund.

Article 7. Susitna River Hydroelectric Project.

Section	Section
300. Description of project	340. Annual report
310. Purpose of project	350. Legislative and executive oversight
320. Preliminary reports	360. Project financing
325. Restrictions on contracting	
330. Construction, maintenance and operation of project	

Sec. 44.83.300. Description of project. The Susitna River hydroelectric project consists of dams and related reservoirs, and power plants located in the Upper Susitna River Basin, and related transmission lines, facilities, and load centers, as described in the Alaska Power Authority's report required by AS 44.83.320(b). (§ 2 ch 169 SLA 1980)

Sec. 44.83.310. Purpose of project. The primary purpose of the Susitna River hydroelectric project is to generate, transmit and distribute electric power in a manner which will

- (1) minimize market area electrical power costs;
- (2) minimize adverse environmental and social impacts while enhancing environmental values to the extent possible; and
- (3) safeguard both life and property. (§ 2 ch 169 SLA 1980)

Sec. 44.83.320. Preliminary reports. (a) By March 30, 1981, the authority shall prepare and submit to the governor and to the legislature a preliminary report recommending whether work should continue on the Susitna River hydroelectric project, and, if the recommendation is to continue on the project, the report shall explain in detail

(1) economic evaluations and preliminary environmental impact assessments for the Susitna River hydroelectric project and all viable alternatives;

(2) the federal and state permits required to be obtained before construction can begin and the expected construction start date; and

(3) any other information the authority considers appropriate or necessary to adequately inform the governor and the legislature of the status of the Susitna River hydroelectric project.

(b) By April 30, 1982, the authority shall prepare and submit to the governor and to the legislature a preliminary report recommending whether work should continue on the Susitna River hydroelectric project, and other viable alternatives. If the recommendation is to continue on the Susitna River hydroelectric project, the report shall explain in detail

(1) the proposed conceptual design and phases of construction of the Susitna River hydroelectric project;

(2) the expected completion date of each phase of construction;

(3) the expected cost of each phase of construction;

(4) the costs to the state and consumers of the project under alternative methods of project financing, including revenue bonds, general obligation bonds, and general fund appropriations; and

(5) any other information the authority considers appropriate or necessary to adequately inform the governor and the legislature of the status of the Susitna River hydroelectric project.

(c) The preliminary reports required under (a) and (b) of this section are in addition to any reports required under AS 44.83.180 — 44.83.224. (§ 2 ch 169 SLA 1980)

Sec. 44.83.325. Restrictions on contracting. The authority may not enter into contracts under AS 44.83.300 — 44.83.360 other than those contracts necessary to complete (1) feasibility studies, (2) the preliminary reports required by AS 44.83.320, or (3) construction of the Anchorage-Fairbanks intertie, until the legislature approves by law the preliminary report required under AS 44.83.320(b). (§ 2 ch 169 SLA 1980)

Editor's note. — Section 21, ch. 133, SLA 1982, provides: "Notwithstanding the provisions of AS 44.83.325, the Alaska Power Authority may enter into contracts under AS 44.83.300 — 44.83.360 for preliminary work without the approval required by AS 44.83.325. In this section, 'preliminary work' means the preparation of plans and studies and the preparation and submission of license applications, as well as other types of work, that must be

completed before actual construction of the Susitna River hydroelectric project, described in AS 44.83.300, may begin. This section does not authorize the Alaska Power authority to enter into contracts for the actual construction of the Susitna River hydroelectric project or for the preparation of the site of the Susitna River hydroelectric project without the approval required by AS 44.83.325."

Sec. 44.83.330. Construction, maintenance and operation of project. Within one year after approval of its preliminary report submitted under AS 44.83.320(b), the authority may enter into a contract for the construction of the Susitna River hydroelectric project in a manner consistent with the purpose of the project as described in AS 44.83.310. (§ 2 ch 169 SLA 1980)

Sec. 44.83.340. Annual report. (a) If the Susitna River hydroelectric project is approved by the legislature under AS 44.83.320(d), beginning in 1983 the authority shall prepare an annual report which explains in detail

(1) the status of construction on the Susitna River hydroelectric project;

(2) the completion date of any phase of the Susitna River hydroelectric project which has been completed and the reasons for any deviation between the completion date and the expected completion date stated in the preliminary report required under AS 44.83.320(b);

(3) the actual cost of any phase of the Susitna River hydroelectric project which has been completed and the reasons for any deviation between the actual cost and the expected cost stated in the preliminary report required under AS 44.83.320(b);

(4) the federal and state permits necessary to begin or continue construction of the Susitna River hydroelectric project, the actual dates on which the federal and state permits necessary to begin or continue construction were obtained, and the reasons for any deviation between the actual dates and the expected dates stated in the preliminary report required under AS 44.83.320(a) or in the earlier annual reports required under this section;

(5) any other information the authority considers appropriate or necessary to adequately inform the governor and the legislature of the status of the Susitna River hydroelectric project.

(b) The annual report required under (a) of this section is in addition to any reports required under AS 44.83.180 — 44.83.224 and shall be submitted, by March 30 of each year, to the governor and to each member of the legislature. (§ 2 ch 169 SLA 1980)

Sec. 44.83.350. Legislative and executive oversight. The legislature or the governor may provide for ongoing oversight, review and selected in-depth analysis of the Susitna River hydroelectric project plan of study. The authority shall provide all data, analyses, reports, and other information to whomever conducts the oversight, review, or analysis activities. Selected in-depth analyses shall include assessments of the power alternatives, financing, and power marketing sections of the Susitna River hydroelectric project plan of study. (§ 2 ch 169 SLA 1980)

Sec. 44.83.360. Project financing. The Susitna River hydroelectric project shall be financed by general fund appropriations, general obligation bonds, revenue bonds, or other plans of finance as approved by the legislature. (§ 2 ch 169 SLA 1980)

Article 8. Rural Electrification Revolving Loan Fund.

Section

361. Rural electrification revolving loan fund

363. Loan advisory committee

Sec. 44.83.361. Rural electrification revolving loan fund. (a) The rural electrification revolving loan fund is established in the Alaska Power Authority. The fund consists of

(1) appropriations made to the fund; and

(2) AS 44.83.361(a)(2) is amended to read:

this section. (2) principal (AND INTEREST) payments on loans made under

(b) The authority may make loans from the rural electrification revolving loan fund to electric utilities certified by the Alaska Public Utilities Commission. A loan from the fund may be made only for the purpose of extending new electric service into an area of the state that an electric utility may serve under a certificate of public convenience and necessity issued by the Alaska Public Utilities Commission. A loan may be made from the fund to an electric utility if the utility invests the money necessary to provide one pole, one span of line, one transformer, and one service drop for each consumer for whom immediate service would be provided by the extension of electric service. However, a loan may not be made from the fund unless

(1) the loan is recommended by a loan advisory committee appointed under AS 44.83.363; and

(2) the extension of electric service would provide immediate service to at least three consumers.

Original sponsor: Rules/Governor

NOT ADOPTED

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 589 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority; and
7 providing for an effective date."

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

9 * Section 1. AS 44.83.398(a) is amended to read:

10 (a) The authority shall sell power produced from power projects
11 acquired or constructed under the energy program for Alaska. For
12 purposes of this section, Lake Tyee, Swan Lake, Solomon Gulch, and
13 Terror Lake hydroelectric facilities are considered to be one power
14 project. This power project is referred to as the initial project [A
15 UTILITY THAT PURCHASES POWER PRODUCED BY A POWER PROJECT OF THE AU-
16 THORITY SHALL AGREE WITH THE AUTHORITY

17 (1) TO GIVE PREFERENCE IN THE SALE OF POWER AT RETAIL TO
18 ALL CLASSES OF CONSUMERS OF POWER EXCEPT INDUSTRIAL CONSUMERS;

19 (2) TO CHARGE INDUSTRIAL CONSUMERS OF POWER A RATE DE-
20 TERMINED BY THE AUTHORITY IN ACCORDANCE WITH (d) OF THIS SECTION].

21 * Sec. 2. AS 44.83.398(b) is amended to read:

22 (b) The authority shall establish a wholesale power rate struc-
23 ture applicable to sales of power to the [its] customers [AT THE
24 BUSBAR] of a power project as follows:

25 (1) The authority shall establish and maintain a separate
26 wholesale power rate applicable to each power project that it has
27 acquired or constructed under the energy program for Alaska, other
28 than a project described in (f) of this section. The wholesale power
29 rate established by the authority for the initial project must be a

1 rate calculated under this paragraph except that the portion of the
2 rate applicable to (A) and (C) of this paragraph must be adjusted for
3 the hydroelectric facilities in the initial project as set out in (3)
4 of this subsection. The wholesale power rate shall be computed by the
5 authority annually, or more frequently as may be necessary, and shall
6 equal the rate that the authority estimates is necessary to produce
7 revenue that is sufficient to pay

8 (A) operation, maintenance, and equipment replacement
9 costs of the power project;

10 (B) the power project's proportionate share of the
11 debt service on state loans and bonds for all power projects in
12 the energy program for Alaska, determined in accordance with (g)
13 of this section;

14 (C) safety inspections and investigations of the power
15 project by the authority.

16 [(2) IF, BY JULY, 1, 1991, THE LEGISLATURE HAS NOT APPRO-
17 PRIATED AT LEAST \$5,000,000,000 TO THE FUND, IN ADDITION TO APPRO-
18 PRIATIONS TO THE FUND OF INTEREST EARNED ON MONEY IN THE FUND, THE
19 AUTHORITY SHALL, BEGINNING ON THAT DATE, ESTABLISH AND MAINTAIN A
20 SEPARATE WHOLESALE POWER RATE APPLICABLE TO EACH POWER PROJECT THAT IS
21 ACQUIRED OR CONSTRUCTED UNDER THE ENERGY PROGRAM FOR ALASKA. THE
22 WHOLESALE POWER RATE SHALL BE COMPUTED BY THE AUTHORITY ANNUALLY, OR
23 MORE FREQUENTLY AS MAY BE NECESSARY, AND SHALL BE THE GREATER OF

24 (A) 10 PERCENT OF THE AMOUNT THE AUTHORITY HAS INVEST-
25 ED IN THE POWER PROJECT, INCLUDING LOANS AND GRANTS MADE BY THE
26 STATE; OR

27 (B) THE RATE THAT THE AUTHORITY ESTIMATES IS NECESSARY
28 TO PRODUCE REVENUE SUFFICIENT TO PAY

29 (i) OPERATION, MAINTENANCE, AND EQUIPMENT

1 REPLACEMENT COSTS OF THE POWER PROJECT;

2 (ii) THE POWER PROJECT'S PROPORTIONATE SHARE OF
3 DEBT SERVICE ON STATE LOANS AND BONDS FOR ALL POWER PROJECTS
4 IN THE ENERGY PROGRAM FOR ALASKA, DETERMINED IN ACCORDANCE
5 WITH (g) OF THIS SECTION: AND

6 (iii) SAFETY INSPECTIONS AND INVESTIGATIONS OF THE
7 POWER PROJECT BY THE AUTHORITY.]

8 (3) For the purpose of determining amounts to be allocated
9 to each hydroelectric facility in the initial project under (1)(A) and
10 (1)(C) of this subsection, the authority shall determine for each
11 hydroelectric facility its individual operation, maintenance, equip-
12 ment replacement, safety inspection, and investigation costs.

13 * Sec. 3. AS 44.83.398(e) is amended to read:

14 (e) After determining the wholesale power rate for a power
15 project under the provisions of this section, the authority may adjust
16 the rate or change the rate provisions to insure that the revenue
17 derived from that power project and the aggregate revenues of the
18 authority will be adequate to comply with the rate covenants and other
19 agreements contained in any trust indenture or trust agreement entered
20 into by the authority for the security of the holders of bonds issued
21 to finance power projects in the Energy Program for Alaska. The
22 authority may agree with a purchaser of power to limit rate increases
23 caused by debt service payable by the authority on subsequent proj-
24 ects.

25 * Sec. 4. AS 44.83.398(g) is amended to read:

26 (g) For the purposes of (b)(1)(B) [AND (b)(2)(B)(ii)] of this
27 section, a power project's proportionate share of debt service on
28 state loans and bonds for all power projects in the energy program for
29 Alaska is equal to the state's investment in the power project divided

1 by the state's investment in all power projects in the energy program
2 for Alaska and multiplied by the debt service on state loans and bonds
3 for all power projects in the energy program for Alaska. In this
4 subsection

5 (1) "state's investment in the power project" includes all
6 state money invested in a power project, including loans, grants, and
7 proceeds from bonds, less the principal repayments on the project's
8 proportionate share of the debt service on state loans and bonds;

9 (2) "state's investment in all power projects in the energy
10 program for Alaska" includes all state money invested in the power
11 projects, other than interties, in the energy program for Alaska,
12 including loans, grants, and proceeds from bonds, less the principal
13 repayments on bonds and state loans issued for the power projects.

14 * Sec. 5. AS 44.83.398(d) is repealed.

15 * Sec. 6. The Bradley Lake hydroelectric project is approved as a state
16 project in the energy program for Alaska.

17 * Sec. 7. The Susitna hydroelectric project is approved as a state
18 project in the energy program for Alaska.

19 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
20 10.070(c).

Original sponsor: Rules/Governor

Funding Information

General Fund	\$275,000,000
Other Funds	-0-
	<u>\$275,000,000</u>

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 684(Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Alaska
7 Power Authority; and providing for an effective
8 date."

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

10 * Section 1. The sum of \$49,000,000 is appropriated from the general
11 fund to the Alaska Power Authority for the purpose of rate stabilization in
12 accordance with the terms of power sales agreements and bond covenants for
13 the issuance of revenue bonds for the Lake Tye, Swan Lake, Terror Lake,
14 and Solomon Gulch hydroelectric facilities.

15 * Sec. 2. The sum of \$200,000,000 is appropriated from the general fund
16 to the power development fund for the purpose of financing the Watana Dam
17 phase of the Susitna hydroelectric project.

18 * Sec. 3. The sum of \$26,000,000 is appropriated from the general fund
19 for the power cost assistance program.

20 * Sec. 4. The appropriations made in secs. 1 - 3 of this Act are not
21 one-year appropriations and do not lapse under AS 37.25.010.

22 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
23 10.070(c).

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE JOINT RESOLUTION NO. 57 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-
6 tion of the State of Alaska creating a
7 fund to provide a source of financing
8 for capital projects.

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

10 * Section 1. Article IX, Constitution of the State of Alaska, is amend-
11 ed by adding a new section to read:

12 SECTION 17. MAJOR PROJECTS FUND. (a) There is created in the
13 State treasury a major projects fund. The purpose of the major proj-
14 ects fund is to finance the construction of capital projects that
15 exceed \$100,000,000 in cost. The unexpended balance of the fund shall
16 be invested in the manner specified in section 16 of this article for
17 the general fund. The major projects fund consists of

18 (1) an annual deposit of 25 percent of state revenue earned
19 during the period beginning July 1, 1985, and ending November 30,
20 1990, from the following sources:

- 21 (A) mineral lease rentals;
22 (B) royalties;
23 (C) royalty sale proceeds;
24 (D) federal mineral revenue-sharing payments; and
25 (E) state bonuses;

26 (2) interest earned each fiscal year from investment of
27 money in the major projects fund;

28 (3) revenue dedicated to the major projects fund in accor-
29 dance with (c) of this section; and

1 (4) appropriations made by the legislature to the major
2 projects fund.

3 (b) Money shall not be expended from the major projects fund for
4 a capital project unless

5 (1) the expenditure is in accordance with an appropriation
6 bill passed by the legislature;

7 (2) a plan for financing the project has been approved by
8 the governor and the legislature that identifies the source of all
9 money necessary to complete construction of the project;

10 (3) the capital project is estimated to earn enough revenue
11 during the useful life of the project to pay the costs of operations
12 and maintenance of the project and to repay the money appropriated
13 from the major projects fund and other money to finance the project;
14 and

15 (4) the capital project is owned by the state.

16 (c) The legislature shall dedicate by law sufficient revenue
17 earned by a capital project financed by the major projects fund so
18 that the amount expended from the fund to finance the project is re-
19 paid during the useful life of the project.

20 (d) The legislature may appropriate revenue dedicated under this
21 section to meet a state of disaster declared by the governor as pre-
22 scribed by law.

23 * Sec. 2. Article IX, sec. 7, Constitution of the State of Alaska is
24 amended to read:

25 SECTION 7. DEDICATED FUNDS. The proceeds of any state tax or
26 license shall not be dedicated to any special purpose, except as pro-
27 vided in sections [SECTION] 15 and 17 of this article or when required
28 by the federal government for state participation in federal programs.
29 This provision shall not prohibit the continuance of any dedication

1 for special purposes existing upon the date of ratification of this
2 section by the people of Alaska.

3 * Sec. 3. Article IX, sec. 16, Constitution of the State of Alaska is
4 amended to read:

5 SECTION 16. APPROPRIATION LIMIT. Except for appropriations for
6 Alaska permanent fund dividends, appropriations from the major proj-
7 ects fund established by section 17 of this article, appropriations of
8 revenue bond proceeds, appropriations required to pay the principal
9 and interest on general obligation bonds, and appropriations of money
10 received from an non-State source in trust for a specific purpose, in-
11 cluding revenues of a public enterprise or public corporation of the
12 State that issues revenue bonds, appropriations from the treasury made
13 for a fiscal year shall not exceed \$2,500,000,000 by more than the
14 cumulative change, derived from federal indices as prescribed by law,
15 in population and inflation since July 1, 1981. Within this limit, at
16 least one-third shall be reserved for capital projects and loan appro-
17 priations. The legislature may exceed this limit in bills for appro-
18 priations to the Alaska permanent fund and in bills for appropriations
19 for capital projects, whether of bond proceeds or otherwise, if each
20 bill is approved by the governor, or passed by affirmative vote of
21 three-fourths of the membership of the legislature over a veto or item
22 veto, or becomes law without signature, and is also approved by the
23 voters as prescribed by law. Each bill for appropriations for capital
24 projects in excess of the limit shall be confined to capital projects
25 of the same type, and the voters shall, as provided by law, be in-
26 formed of the cost of operations and maintenance of the capital proj-
27 ects. No other appropriation in excess of this limit may be made ex-
28 cept to meet a state of disaster declared by the governor as pre-
29 scribed by law. The governor shall cause any unexpended and

1 unappropriated balance to be invested so as to yield competitive
2 market rates to the treasury.

3 * Sec. 4. Article IX, sec. 17(a), Constitution of the State of Alaska,
4 is amended to read:

5 SECTION 17. MAJOR PROJECTS FUND. (a) There is created in the
6 State treasury a major projects fund. The purpose of the major proj-
7 ects fund is to finance the construction of capital projects which
8 exceed \$100,000,000 cost. The unexpended balance of the the fund
9 shall be invested in the manner specified in section 16 of this
10 article for the general fund. The major projects fund consists of

11 (1) an annual deposit of 25 percent of state revenue earned
12 after [DURING THE PERIOD BEGINNING] July 1, 1985 [, AND ENDING NOVEM-
13 BER 30, 1990,] from the following sources:

- 14 (A) mineral lease rentals;
15 (B) royalties;
16 (C) royalty sale proceeds;
17 (D) federal mineral revenue-sharing payments;
18 (E) state bonuses;

19 (2) interest earned each fiscal year from investment of
20 money in the major projects fund; and

21 (3) revenue dedicated to the major projects fund in accor-
22 dance with (c) of this section; and

23 (4) appropriations made by the legislature to the Major
24 Projects Fund.

25 * Sec. 5. Article XV, Sec. 17(a), Constitution of the State of Alaska
26 is amended by adding a new section to read:

27 Section 29. EXTENSION OF CONTRIBUTION TO MAJOR PROJECT FUND. If
28 the 1984 amendment creating the major projects fund (Article IX,
29 section 17) is adopted, the lieutenant governor shall cause a ballot

1 title and proposition for Article IX, section 17(a), as amended in
2 section i of this resolution to be placed on the ballot at the general
3 election in 1990. If a majority of those voting on the proposition in
4 1990 approves the amendment, it shall be adopted.

5 * Sec. 6. The amendments proposed by this resolution shall be placed
6 before the voters of the state at the next general election in conformity
7 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-
8 tion laws of the state.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

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

SCS CSHB 589 (Fin) am
RELATING TO THE ALASKA POWER AUTHORITY; AUTHORIZING THE CONSTRUCTION OF THE WATANA AND BRADLEY LAKE HYDROELECTRIC PROJECTS.

Sec. 1 Combines the Lake Tyee, Swan Lake, Solomon Gulch and Terror Lake hydroelectric projects into one power project for the purpose of the wholesale power rate calculation. Eliminates the restriction on industrial power rates.

Sec. 2 Specifies that in determining wholesale power rates for the 4-dam pool projects the facilities will share the debt service. Operating and maintenance costs will be determined separately. Repeals the Susitna "equity clause".

Sec. 3 Allows the AFA to contractually limit the amount of debt service payable by power purchasers as a consequence of the later addition of new projects to the energy program.

Sec. 4 Conforming amendment per repeal of Susitna "equity clause".

Sec. 5 Conforming amendment per elimination of restriction on industrial power rates.

Sec. 6 Repeals the provision that construction contracts for Susitna are contingent upon legislative approval of the project's preliminary report, and the mandate that contracts be entered into within one year after report approval.

Sec. 7 Signing of construction contracts would be contingent on legislative approval of power projects.

Sec. 8 Authorizes the Bradley Lake project at a construction cost of \$300 million in July 1983 dollars.

Sec. 9 Authorizes the Watana project at a construction cost of \$3.75 billion in January 1983 dollars.

Sec. 10 Immediate effective date.

CHANGES FROM HOUSE-PASSED VERSION:

Amends current statute governing construction contracts for Susitna. Contracts could be entered into upon legislative approval of the Sustina project, rather than upon legislative approval of the preliminary report.

Revises the construction cost for Bradley Lake and Watana, per information from the Alaska Power Authority.

Susitna "equity clause" is repealed in the body of the bill (Section 2) rather than in a separate repealer.

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 **SCS** CS FOR HOUSE BILL NO. 589 (Finance) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority
7 authorizing the construction of the Watana and
8 Bradley Lake hydroelectric projects; and providing
9 for an effective date."

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

11 * Section 1. AS 44.83.398(a) is amended to read:

12 (a) The authority shall sell power produced from power projects
13 acquired or constructed under the energy program for Alaska. For
14 purposes of this section, Lake Tyee, Swan Lake, Solomon Gulch, and
15 Terror Lake hydroelectric facilities are considered to be one power
16 project. This power project is referred to as the initial project [A
17 UTILITY THAT PURCHASES POWER PRODUCED BY A POWER PROJECT OF THE AU-
18 THORITY SHALL AGREE WITH THE AUTHORITY

19 (1) TO GIVE PREFERENCE IN THE SALE OF POWER AT RETAIL TO
20 ALL CLASSES OF CONSUMERS OF POWER EXCEPT INDUSTRIAL CONSUMERS;

21 (2) TO CHARGE INDUSTRIAL CONSUMERS OF POWER A RATE DE-
22 TERMINED BY THE AUTHORITY IN ACCORDANCE WITH (d) OF THIS SECTION].

23 * Sec. 2. AS 44.83.398(b) is amended to read:

24 (b) The authority shall establish a wholesale power rate struc-
25 ture applicable to sales of power to the [ITS] customers [AT THE
26 BUSBAR] of a power project as follows:

27 (1) The authority shall establish and maintain a separate
28 wholesale power rate applicable to each power project that it has
29 acquired or constructed under the energy program for Alaska, other

1 than a project described in (f) of this section. The wholesale power
2 rate established by the authority for the initial project shall be a
3 rate calculated under this paragraph except that the portion of the
4 rate applicable to (A) and (C) of this paragraph shall be adjusted for
5 the hydroelectric facilities in the initial project as set out in (3)
6 of this subsection. The wholesale power rate shall be computed by the
7 authority annually, or more frequently as may be necessary, and shall
8 equal the rate that the authority estimates is necessary to produce
9 revenue that is sufficient to pay

10 (A) operation, maintenance, and equipment replacement
11 costs of the power project;

12 (B) the power project's proportionate share of the
13 debt service on state loans and bonds for all power projects in
14 the energy program for Alaska, determined in accordance with (g)
15 of this section;

16 (C) safety inspections and investigations of the power
17 project by the authority.

18 (2) If, by July 1, 1991, the legislature has not appropri-
19 ated at least \$5,000,000,000 to the fund, in addition to appropria-
20 tions to the fund of interest earned on money in the fund, the author-
21 ity shall, beginning on that date, establish and maintain a separate
22 wholesale power rate applicable to each power project that is acquired
23 or constructed under the energy program for Alaska. The wholesale
24 power rate shall be computed by the authority annually, or more fre-
25 quently as may be necessary, and shall be the greater of

26 (A) 10 percent of the amount the authority has in-
27 vested in the power project, including loans and grants made by
28 the state; or

29 (B) the rate that the authority estimates is necessary

1 to produce revenue sufficient to pay
2 (i) operation, maintenance, and equipment re-
3 placement costs of the power project;
4 (ii) the power project's proportionate share of
5 debt service on state loans and bonds for all power projects
6 in the energy program for Alaska, determined in accordance
7 with (g) of this section; and
8 (iii) safety inspections and investigations of the
9 power project by the authority.]

10 (3) For the purposes of determining amounts to be allocated
11 to each hydroelectric facility in the initial project under (1)(A) and
12 (1)(C) of this subsection, the authority shall determine for each
13 hydroelectric facility its individual operation, maintenance, equip-
14 ment replacement, safety inspection, and investigation costs.

15 * Sec. 3. AS 44.83.398(e) is amended to read:

16 (e) After determining the wholesale power rate for a power
17 project under the provisions of this section, the authority may adjust
18 the rate or change the rate provisions to insure that the revenue
19 derived from that power project and the aggregate revenues of the
20 authority will be adequate to comply with the rate covenants and other
21 agreements contained in any trust indenture or trust agreement entered
22 into by the authority for the security of the holders of bonds issued
23 to finance power projects in the energy program [ENERGY PROGRAM] for
24 Alaska. The authority may agree with a purchaser of power to limit
25 rate increases caused by debt service payable by the authority on
26 subsequent projects.

27 * Sec. 4. AS 44.83.398(g) is amended to read:

28 (g) For the purposes of (b)(1)(B) [AND (b)(2)(B)(ii)] of this
29 section, a power project's proportionate share of debt service on

1 state loans and bonds for all power projects in the energy program for
2 Alaska is equal to the state's investment in the power project divided
3 by the state's investment in all power projects in the energy program
4 for Alaska and multiplied by the debt service on state loans and bonds
5 for all power projects in the energy program for Alaska. In this
6 subsection

7 (1) "state's investment in the power project" includes all
8 state money invested in a power project, including loans, grants, and
9 proceeds from bonds, less the principal repayments on the project's
10 proportionate share of debt service on state loans and bonds;

11 (2) "state's investment in all power projects in the energy
12 program for Alaska" includes all state money invested in the power
13 projects, other than interties, in the energy program for Alaska,
14 including loans, grants, and proceeds from bonds, less the principal
15 repayments on bonds and state loans issued for the power projects.

16 * Sec. 5 AS 44.83.398(d) is repealed.

17 * Sec. 6 AS 44.83.330 is repealed.

18 * Sec. 7 AS 44.83.325 is amended to read: The authority may not
19 enter into contracts under AS 44.83.300 - AS 44.83.360 other than those
20 contracts necessary to complete (1) feasibility studies, (2) the prelim-
21 inary reports required by AS 44.83.320, or (3) construction of the
22 Anchorage-Fairbanks Intertie, until the Legislature [approves by law the
23 preliminary report required under AS 44.83.320(b).] enacts a law
24 approving the project in accordance with AS 44.83.185(c).
25

26 * Sec. 8 The Bradley Lake hydroelectric project is authorized for
27 construction under AS 44.83.185(c) and 44.83.384(c) at a construction
cost of \$300,000,000 in July 1983 dollars.

* Sec. 9 The Watana Dam project in the Susitna River hydro-
electric project is authorized for construction under AS 44.83.185(c) at
a construction cost of \$3,750,000,000 in January 1983 dollars.

* Sec. 10 This Act takes effect immediately in accordance
with AS 01.10.070(c).

Adopted by 4 communities
in Anchorage 3/12/84.

FOUR DAM POOL COMMUNITIES
REQUESTED RESPONSE TO THE ALASKA POWER AUTHORITY

The communities comprising the Four Dam Pool have each previously made separate proposals to the APA for power sales agreements that they believe meet the needs of the communities and the APA. The APA has declined to agree with certain terms of those proposals and in addition has expressed frustration in being unable to reconcile the differences among the proposals made by the communities. Accordingly, and because time is of the essence, the APA has requested the five communities to resolve their differences and to prepare a common proposal for presentation to the APA on the issues that remain unresolved. Pursuant to this request, representatives of the communities in the Four Dam Pool did meet to agree on a coordinated position, which they are willing to recommend to their governing bodies, on a number of issues that the power sales agreements must address. The positions arrived at are described below.

1. Severability

The communities recognize the APA's legitimate interest that the invalidation of a minor provision of the contracts should not automatically void the contracts entirely. The communities believe APA should also recognize their legitimate interest in not having the contract enforced if material provisions essential to the intent of the contract are invalidated. Thus, the communities are willing to accept a severability clause if the clause is modified to accommodate this distinction between judicial invalidation of "minor" as distinct from "material" provisions.

2. Displacement of APA Power

The communities believe Ketchikan's situation presents no problem for the other communities. Wrangell and Petersburg will resolve Petersburg's situation on the basis of Crystal Lake's average energy production (the 11.0 gigawatthours used in the projections), and will suggest appropriate contractual language to effect that resolution. Thus, the existing language of § 7(e) of the contract is acceptable to the communities as generic language for that section.

3. Subordination of Future Debt

As previously discussed with APA, the intent of the communities (reflected in Forrest Walls's redraft of the counsel's opinion letter) is that (a) the communities' obligations to pay the APA will not be placed above their obligations to pay the holders of their currently outstanding bonds, (b) the communities' obligations to pay the APA would not be subordinated to future debt issued by the communities, and (c) future debt of the communities may be issued on a parity with the communities' obligations to pay the APA under the conditions contained in

§ 7(d) of the March 6, 1984, draft contract. We understand this resolution is acceptable to APA.

4. Tax-exemption of APA Bonds

The communities will accept § 14(d) of the existing draft contract (covenant not to impair tax-exempt status) as part of this proposal.

5. Amount of Bonds in Rate Stabilization Fund

If the Fund is constituted subject to the other constraints set forth below, the communities do not object to minor increases in the size of the bond component of the Fund that may be necessary to achieve the results intended.

6. Debt Service on Additional Projects prior to Completion

If the System Increment provision is adopted in the form proposed by the communities, the communities are willing in principle to accept the sharing of debt service on New Projects prior to their Date of Commercial Operation within the limits of the System Increment provision. However, counsel for the communities will not issue an opinion letter indicating that inclusion of such debt service in the communities' payment obligations to the APA is lawful unless AS 44.83.092(4) is amended to authorize the communities to pay such debt service.

7. Permanent Reduction In Project Capability (Damp Hole)

The communities have not yet reviewed changes to the March 6, 1984 contract to determine whether it incorporates all the concepts orally agreed upon. The communities are willing, however, to accept the current APA proposal in terms of distribution of risk for project failure, reduced project capability, and interruptions of deliveries.

8. Marketing of Excess Power

The communities will be entitled to undertake, and will be solely responsible for, the marketing of all excess power from the projects. Wrangell and Petersburg will do so jointly in the case of excess Tyee power, and will propose contractual language to recognize and effectuate this result.

9. Dispute Resolution:

The communities will accept, for budget matters, the procedures of § 6(c)(2) of the present contract draft for purposes of exhausting their administrative remedies in the Annual Budget process. The contract must, however, establish a Contract Administration Committee that includes representatives of the Purchasers to assist in resolving such disputes and other issues

of contract administration. In addition, the communities insist that they be entitled to de novo adjudication of all contract disputes based on a record made in court, free of any presumptions in favor of the agency, as provided in Ketchikan's proposed "Section 19".

10. Payment of MGT Note & Release of Ketchikan

The communities agree with Ketchikan that payment of this note and Ketchikan's release from any obligation with respect thereto must be a condition precedent to the effectiveness of the contracts (unless the State assumes Ketchikan's obligations under the proposed power sales contracts in the manner described in Paragraph 14 below).

11. Project Litigation Judgment Recoveries

The communities insist that the proceeds of any judgment obtained in any Project-related litigation must be applied to reduce the cost of the Initial Project to the communities, and that the contract must expressly ensure this result.

12. Insurance Coverage and Repair/Reconstruction Decisions

The Contract Administration Committee, among its other responsibilities, will determine the following: (a) the extent of casualty insurance coverage in excess of that required by the Bond Resolution, (b) business interruption insurance coverage for the Purchasers, and (c) the application of insurance proceeds in the event of casualty (e.g., whether to repair, rebuild, or abandon the project and retire debt).

13. Acquisition Agreements

The communities have not had time to review fully APA's proposed changes in the Acquisition Agreements. The communities will do so and will respond as quickly as possible. The final version of the amendments to those Agreements must be agreed upon and placed in writing.

14. "All or None" Provision

The communities are willing to have the contracts be effective if all communities sign, or if the State steps into the shoes of any community that does not sign, provided that (a) the State assumes the financial obligations of the absent community to the extent of that community's forecasted power purchases, and (b) the State does so in a manner that provides equivalent security for the bondholders as the security that would have been provided had the absent community signed.

15. Rate Stabilization

The size of the Fund must be increased, and must be subject to certain constraints, as follows:

- (a) The Fund must be sufficient in amount to permit the projected unit wholesale cost of Project power to be set at a level 1.5 cents per kwh less than the currently projected "Diesel Alternative" for each community in each year.
- (b) APA will present the communities with a plan for the Fund which will:
 - (i) consist of appropriated funds, bond proceeds, and earnings;
 - (ii) contain no higher percentage of bond proceeds than the percentage of bond proceeds in the current proposal; and
 - (iii) permit issuance of bonds at a true interest cost (TIC) no higher than 11.5 percent, with approximately level debt service over 35 years.

An appropriation of at least \$49 million will be needed to accomplish this result.

- (c) If the communities accept APA's plan, the size of the necessary appropriation and sale of the bonds within the above limitations will be conditions precedent to the effectiveness of the contracts.
- (d) The schedule of annual entitlements from the Fund for each Purchaser will be determined at the time bond sale terms and reinvestment rates are known.

2-16. System Increment

Using the method outlined in § 9 of the APA draft (but excluding from the Allocated Debt Service base any increase in Debt Service imposed because of § 6(f) events), the debt service share to be borne by the Purchasers shall not increase:

- (a) In the first ten years;
- (b) More than 5 percent per year;
- (c) More than 20 percent in 10 years.

17. Other Changes

The communities have not yet had an opportunity to review the APA's March 7, 1984, redraft of the proposed contracts, and reserve the right to continue to make additional suggestions for the improvement of that draft (and related documents) consistent with the positions set forth above and below and the previously expressed intent of the parties. In addition, the communities have not had an opportunity to present to the APA oral and

written comments on the proposed O & M Agreements and Interconnection Agreements. Finally, certain oral agreements with respect to the contract and related documents have not yet been placed in writing by the APA. The communities reserve the right to review and comment fully on all such matters. Agreement must be reached on such comments and placed in writing.

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

April 1, 1984

HOUSE-PASSED VERSION OF HB 589

"AN ACT RELATING TO THE ALASKA POWER AUTHORITY AND AUTHORIZING THE CONSTRUCTION OF THE WATANA AND BRADLEY LAKE HYDROELECTRIC PROJECTS."

Sec. 1 Combines the Lake Tye, Swan Lake, Solomon Gulch and Terror Lake hydroelectric projects into one power project for the purpose of the wholesale power rate calculation.

Eliminates the restriction on industrial power rates.

Sec. 2 Specifies that in determining wholesale power rates for the 4-dam pool projects the facilities will share the debt service. Operating and maintenance costs will be determined separately.

Sec. 3 Allows the APA to contractually limit the amount of debt service payable by power purchasers as a consequence of the later addition of new projects to the energy program.

Sec. 4 Conforming amendment per repeal of Susitna equity clause.

Sec. 5 Repeals Susitna equity clause.

Sec. 6 Conforming amendment per elimination of restriction on industrial power rates.

Sec. 7 Authorizes the Bradley Lake project at a construction cost of \$350 million.

Sec. 8 Authorizes the Watana project at a construction cost of \$1.5 billion, and approves the preliminary report on the Susitna project.

Sec. 9 Immediate effective date.

HOUSE BILL 589

- I. Amendments necessary to properly authorize Bradley Lake and Watana.

Section 7. In accordance with AS 44.83.185, the Bradley Lake hydroelectric project is authorized at a construction cost of \$300,000,000 in July 1983 dollars.

Section 8. In accordance with AS 44.83.185, the Watana phase of the Susitna hydroelectric project is authorized at a construction cost of \$3,750,000,000 in January 1983 dollars.

- II. Amendments necessary to keep interest earnings in the Power Development Fund.

AS 44.83.382 (b) is repealed and reenacted to read:

(b) The power development fund consists of appropriations made by the legislature and interest earned each fiscal year from investment of money in the fund.

AS 44.83.388 (b) is repealed.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

April 11, 1984

Honorable Bettye Fahrenkamp, Chair
Senate Resources Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

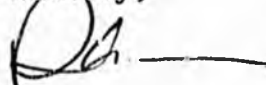
Re: Letter of Intent
CS for HB 589 (Finance) am

The committee substitute for HB 589 (Finance) am, which is currently before the Senate Resources Committee, authorizes the construction of the Bradley Lake hydroelectric project and the Watana dam project in the Susitna River hydroelectric project in accordance with AS 44.83.185 and other statutory provisions. This letter serves to inform the committee of the Alaska Power Authority's intentions with regard to expenditures for the detailed design and construction of these projects.

The authority has spent, and will continue to spend, appropriated funds necessary for preliminary design work related to the FERC license applications for both of these projects. However, the authority will not spend money for detailed design work on either of these projects until power sales agreements have been signed by the utilities which will purchase power from the projects, and a plan of finance has been approved by the Board of Directors. This approach is consistent with the authority's proposed policy to require conditional power sales agreements prior to approval of a plan of finance by the board.

The Legislature will have to appropriate funds for the construction of both of these projects. This requirement will give the Legislature an additional opportunity to review these projects and determine whether additional money should be spent.

Sincerely,



Richard A. Lyon, Chairman
Alaska Power Authority

RAL/cw#25M8
41184a

Alaska State Legislature

APR 10 1984

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

*cc: Comm. ke
members*

TO: Senator Sturgulewski
FROM: Kurt S. Dzinich *KSD*
DATE: April 10, 1984
RE: CSHB589 (Fin) am

Following up our discussion of today, I am providing you my thoughts on the HB589 Sections of concern to you.

Section 3. One of the assurances the four-dam pool participants have demanded in order to sign the power sale agreements has been a System Increment Cap. This cap sets a ceiling to future debt service increases due to subsequent new projects by APA. While this provision could be perceived as constraining the APA's and Legislature's ability to finance future projects, the fact remains that the four-dam pool participants demand it. Whether, in fact, this cap becomes a significant handicap on future projects will probably depend on the rate of escalation of the thermal alternative i.e. if thermal rates escalated dramatically, the participants would be better off while in the case of declining thermal rates the APA would be better off.

In any case, it would probably be very difficult to totally quantify the exact impact of this section on future projects because of the complex interrelationship among the key variables such as load growth, thermal alternative costs, inflation, interest, and amount of state equity. The impact of eliminating the amendment on the other hand would probably be to negate the proposed power sale agreements or as a minimum create a legal uncertainty. At this stage of the game, I believe we have more to gain than lose with passage of the amendment.

Section 7. As written, this section has two problems. First, referencing AS44.83.384(c) applies only to projects that are, or were, either constructed or owned by the Federal Government. Since that is not the case now i.e. Bradley is a State project, there is no point in referencing this section.

The second problem deals with the construction cost estimate. By not indicating whether the cost is in nominal or real dollars, there is potential for misunderstanding.

In order to eliminate the above problems, I recommend the following new Section 7:

In accordance with AS44.83.185(c), the Bradley Lake Hydroelectric Project is authorized at a construction cost of \$300,000,000 in July 1983 dollars.

Section 8. Again, there are two problems with this section as it is written. The indicated construction cost of \$1,500,000,000 is not even close even if it is in real dollars. The figure should be \$3,750,000,000 in January 1983 dollars.

The second problem deals with the approval of the "preliminary report" the submittal of which is required by AS44.83.320(b) to the Governor and the Legislature by April 30, 1982. Again, AS44.83.320(b) required only the submittal of the report and there is no requirement for approval in it.

On the other hand, AS44.83.330 provides that within one year after approval of the "preliminary report" by the Legislature, the APA may initiate construction of the project. Given that construction can not start without the FERC license (now expected in March of 1987) and that the project still must meet the requirements of AS44.83.180 - 44.83.224 (feasibility study and plan of finance, and OMB review) it does not make much sense to now approve the "preliminary report" two years after its submittal.

I believe that it would make much more sense to repeal AS44.83.330 and to amend 44.83.325 as follows:

The authority may not enter into contracts under AS44.83.300 - 44.83.360 other than those contracts necessary to complete (1) feasibility studies, (2) the preliminary reports required by AS44.83.320, or (3) construction of the Anchorage-Fairbanks Intertie, until the Legislature [approves by law the preliminary report required under AS44.83.320(b).] enacts a law approving the project in accordance with AS44.83.185(c).

The above change would eliminate the confusion and place the continuing development of the Susitna project on ~~the~~ more rational basis being utilized on any other new State project.

The new Section 8 would read: In accordance with AS44.83.185(c), the Watana Dam phase of the Susitna Hydroelectric Project is authorized at a construction cost of \$3,750,000,000 in January 1983 dollars.

Needless to say, authorizing Watana prior to receipt of the feasibility study and the plan of finance, as well as the OMB's recommendation, in accordance with the existing statutes (AS44.83.181 and AS44.83.183) could result in a substantial controversy. I believe that the Legislature clearly has the authority to approve a project without waiting for the arrival of these documents. The issue becomes one of: What is a reasonable waiting period by the Legislature for these documents? For example, in the case of

Susitna, the previous APA Board ordered the feasibility study update around October of 1982 and it still has not been approved by this Board! In the case of Bradley, the previous APA Board voted to make that a State project back in October of 1982 and the documentation is apparently only now being submitted.

What exactly would the project authorizations at this stage mean? In the case of Bradley, it would authorize APA to initiate the final engineering and design concurrently with the FERC licensing process thereby avoiding further delays to this project. Current APA Board policy is not to initiate the design until power sale agreements have been concluded. At some future point, probably FY86, APA will still have to come to the Legislature for appropriations for construction.

With respect to Susitna, the Board specifically forbade APA staff to engage in any design at this time. If they follow the same policy as on Bradley above, then no design would be authorized prior to the power sale agreements. It is clear, however, that if a construction start is contemplated in early 1987, then the design would have to start in FY86 at the latest.

For your information, the Federal Government routinely authorizes projects years before they are actually built -- if ever. For example, Snettisham and Bradley were both authorized in 1962. The Congress finally appropriated initial construction funds for Snettisham around 1968 while Bradley was eventually de-authorized around December 1982.

I would recommend against a conditional type authorization for Bradley because it would be redundant. A better solution would be to invite OMB to testify on the merits of the Bradley feasibility study and plan of finance and leave the authorization language neat and clean as proposed earlier. OMB's written recommendation could be considered by the next Legislature, when they address appropriations for construction of the project. In any case, the Legislature will probably want to review the key criteria one last time before appropriating initial construction funds.



Senate

MEMORANDUM

April 10, 1984

TO: Senator Bettye Fahrenkamp, Chairman
Senate Resources Committee

FROM: Senator Arliss Sturgulewski
Senate District F, Seat A

RE: SCR 32, HB 589, HB 684

I would like to make a few comments regarding the above bills.

SCR 32 -- I would appreciate seeing some of the computer runs showing how much would accrue under the proposed legislation and also what impact that would have on available dollars for operating and capital allocation after meeting permanent fund and capital projects fund commitments. Although the legislation speaks to "Earn enough revenue during useful life to repay" it shows only that repayment may be specified. I think this item needs discussion.

HB 589 -- I think there should be discussion re section 3 in which the Alaska Power Authority is given ability to contractually limit the amount of debt service payable by power purchasers. Although I can understand the need for this in terms of the 4-dam pool, I question a permanent grant of authority. As I've indicated to you, I feel that OMB should be on hand to speak directly to the feasibility study and plan of finance regarding Bradley. The statutes are very clear that OMB needs to respond in writing to the legislature on the feasibility study and the plan of finance prior to legislative authorization for construction of Bradley. I am concerned that section 8 in no way shows the construction cost of the Watana project. In the case of both Bradley and Watana, I think we need to speak in terms of real dollars as of a specific date.

HB 684 calls for making a \$200 million appropriation to Watana with none for Bradley. This item needs discussion.

I am enclosing a copy of a memo from Kurt Dzinich who responded to specific questions raised by me.

Enclosure

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 Fahrenkamp
FROM: Kurt S. Dzinich *KSD*
DATE: April 6, 1984
RE: CSHB589 (Fin) am

In preparation for your upcoming hearing on HB589, I am providing you with some comments that might be useful.

Section 7. As written, this section has two problems. First, referencing AS44.83.384(c) applies only to projects that are, or were, either constructed or owned by the Federal Government. Since that is not the case now i.e. Bradley is a State project, there is no point in referencing this section.

The second problem deals with the construction cost estimate. By not indicating whether the cost is in nominal or real dollars, there is potential for misunderstanding.

In order to eliminate the above problems, I recommend the following new Section 7:

In accordance with AS44.83.185(c), the Bradley Lake Hydroelectric Project is authorized at a construction cost of \$300,000,000 in July 1983 dollars.

Section 8. Again, there are two problems with this section as it is written. The indicated construction cost of \$1,500,000,000 is not even close even if it is in real dollars. The figure should be \$3,750,000,000 in January 1983 dollars.

The second problem deals with the approval of the "preliminary report" the submittal of which is required by AS44.83.320(b) to the Governor and the Legislature by April 30, 1982. Again, AS44.83.320(b) required only the submittal of the report and there is no requirement for approval in it.

On the other hand, AS44.83.330 provides that within one year after approval of the "preliminary report" by the Legislature, the APA may initiate construction of the project. Given that construction can not start without the FEREC license (now expected in March of 1987) and that the project still must meet the requirements of AS44.83.180 - 44.83.224 (feasibility study and plan of finance, and OMB review) it does not make much sense to now approve the "preliminary report" two years after its submittal.

I believe that it would make much more sense to repeal AS44.83.330 and to amend 44.83.325 as follows:

The authority may not enter into contracts under AS44.83.300 - 44.83.360 other than those contracts necessary to complete (1) feasibility studies, (2) the preliminary reports required by AS44.83.320, or (3) construction of the Anchorage-Fairbanks Intertie, until the Legislature [approves by law the preliminary report required under AS44.83.320(b).] enacts a law approving the project in accordance with AS44.83.185(c).

The above change would eliminate the confusion and place the continuing development of the Susitna project on a more rational basis being utilized on any other new State project.

The new Section 8 would read: In accordance with AS44.83.185(c), the Watana Dam phase of the Susitna Hydroelectric Project is authorized at a construction cost of \$3,750,000,000 in January 1983 dollars.

Needless to say, authorizing Watana prior to receipt of the feasibility study and the plan of finance, as well as the OMB's recommendation, in accordance with the existing statutes (AS44.83.181 and AS44.83.183) could result in a substantial controversy. I believe that the Legislature clearly has the authority to approve a project without waiting for the arrival of these documents. The issue becomes one of: What is a reasonable waiting period by the Legislature for these documents? For example, in the case of Susitna, the previous APA Board ordered the feasibility study update around October of 1982 and it still has not been approved by this Board! In the case of Bradley, the previous APA Board voted to make that a State project back in October of 1982 and the documentation is apparently only now being submitted.

What exactly would the project authorizations at this stage mean? In the case of Bradley, it would authorize APA to initiate the final engineering and design concurrently with the FEREC licensing process thereby avoiding further delays to this project. Current APA Board policy is not to initiate the design until power sale agreements have been concluded. At some future point, probably FY86, APA will still have to come to the Legislature for appropriations for construction.

With respect to Susitna, the Board specifically forbade APA staff to engage in any design at this time. If they follow the same policy as on Bradley above, then no design would be authorized prior to the power sale agreements. It is clear, however, that if a construction start is contemplated in early 1987, then the design would have to start in FY86 at the latest.

Senator Vic Fischer

Alaska State Legislature
1024 W. 6th Avenue, Suite 204C
Anchorage, Alaska 99501 (907) 278-3654
During Session • Pouch V • Juneau, Alaska 99811 (907) 465-4954



TO: Senator Bettye Fahrenkamp
Chair, Senate Resources Committee

FROM: Senator Vic Fischer

A handwritten signature in black ink, appearing to read "Vic Fischer", written over the printed name.

DATE: April 4, 1984

RE: SCR 32, HB 589, HB 684

You requested comments from committee members on the above bills. Mine follow:

SCR 32 -- As you know, I will not support any version of a major projects fund that constitutionally dedicates a revenue stream. (However, I would consider a statutory fund and am currently looking at possible legislation.)

HB 589 -- I support sections 1-6, as they are necessary to enable the APA to get signed power sales contracts with the four-dam pool communities.

I have some serious reservations about sections 7 and 8, which fully authorize the Bradley Lake project and the Watana portion of Susitna. Such premature approval sidesteps the provisions in law that require submittal of finance plans to the legislature and OMB. I would have thought that the need to follow the statutory process for project selection and approval would have been one of the lessons learned from the four dam pool debacle. Instead, some legislators seem to believe that previous mistakes justify additional ones.

Should these sections be retained I suggest that they be made conditional, specifically upon a finding of the APA board that the projects are both economically and financially feasible and upon OMB approval. As you know, the APA board has never endorsed the Susitna project and only recently completed a draft update that will go to public hearings before finalization. Although "financing options" for both Bradley and Susitna have been put together by APA staff, they have not been approved by the APA board or OMB, and finance plans have not been completed. It is, moreover, the APA's determination that the Watana phase of the Susitna project is not economically justified by itself. It would, therefore, make little sense to commit to the single, unfeasible stage without considering the total financing required.

Additionally, I note that HB 598 authorizes Watana at a cost of \$1.5 billion. That cost is inadequate and grossly misleading, and it would be totally irresponsible for the legislature to authorize a project at a cost at which it cannot possibly be constructed. The cost of Watana in 1983

dollars is \$3.75 billion, and the cost of the entire Susitna project \$5.4 billion. In nominal dollars these are \$9.5 billion for Watana alone and \$17 billion for the whole project. These are the numbers given in the APA March update.

The bill should include accurate numbers for both Bradley and Susitna and should state what kind of dollars they are (1983, 1985, nominal, or whatever.)

HB 684 -- I support the decrease for Susitna funding in the draft CS from \$1.4 billion to \$200 million. I do not support expenditure of any of that amount for construction prior to the completion of project financing. I assume that the APA would not expend any of it prior to FERC licensure, full project financing, and the signing of power sales contracts.

I previously supplied to you a legal opinion by Billy Berrier concerning the \$1.4 billion House appropriation and its relationship to the spending limit. Please make use of it as you see fit.

Thank you for the chance to comment.

cc: Senate Resources Committee members
Senator Jay Kerttula

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

M E M O R A N D U M

TO: Bettye

FROM: Sandra

RE: Effect of approving Watana and Bradley Lake projects in
HB 589

DATE: April 10, 1984

AS. 44.83.185 provides that no money can be spent on final design and construction until a project is approved by the legislature. Legislative approval at this point ignores the statutory procedures set up to ensure that only economically and financially feasible projects will be approved and built. However, the statute doesn't absolutely require completion of a feasibility study and plan of finance before legislative approval, and all expenditures of appropriated money after approval appear to be permissive, not mandatory. In addition, current APA policy is to not spend money on final design and construction until a final plan of finance, which includes power sales agreements, is completed.

POWER PROJECTS GENERALLY (AS 44.83):

Reconnaissance study (.177)
Reconnaissance study reviewed by OMB (.179)
Feasibility study and plan of finance (.181)
 Out in draft for Susitna project now (submitted 3/84)
 Final plan of finance for Bradley submitted 4/84
OMB review study and plan (.183) and make recommendation within 60 days.

Although legislative ^{approval} doesn't need to wait for all of the above, it must be forthcoming before money can be spent on engineering and design (.185)

IN ADDITION, FOR SUSITNA SPECIFICALLY:

Preliminary report (.320)
Update (.320) Out in draft now (submitted 3/84)
In addition, AS 44.83.330 requires approval of the update prior to entering into construction contracts.

APA Board policy on project approval process is attached.

Alaska Power Authority
 Project Approval Process
 Sequence of Events

All significant power projects that are undertaken by the Alaska Power Authority will follow the sequence of events listed below unless modified by Board on a project specific basis. Some events may be concurrent.

Step No.	Description	Approved By			
		Staff	Board	OMB	Leg
1.	Annual Plan for Reconnaissance Studies		X		
2.	Appropriation Request for Reconnaissance Studies		X	X	X
3.	Award Contract for Reconnaissance Study	X			
4.	Authorization to submit Reconnaissance Study to OMB		X		
5.	Approval of Reconnaissance Study			X*	
6.	Annual Plan for Feasibility Studies		X		
7.	Appropriation Request for Feasibility Study		X	X	X
8.	Approve conditional Power Sales Agreements		X		
9.	Authorization to submit feasibility study, and preliminary plan of finance to OMB		X		
10.	Recommend Project Approval or Disapproval to Governor and Legislature			X*	
11.	Authorization of Projects and Construction Cost				X*
12.	Annual Plan for Design		X		
13.	Appropriation Request for Design		X	X	X
14.	Approval of Initiation of Detailed Design, updated Power Sales Agreements, and Updated Plan of Finance		X		
15.	Award Contract for Detailed Design	X			
16.	Annual Plan for Construction		X		
17.	Appropriation for Construction		X	X	X
18.	Approval of Final Plan of Finance and Power Sales Agreements		X		
19.	Approval of Start of Project Construction		X		
20.	Award Construction Contracts	X			

*approval of submit
 to FERC Board*

* Statutory requirements.

Note:

OMB's review is required for new projects that are larger than \$1.5 MW for generation projects or cost more than \$3,000,000 for transmission projects.

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

SENATE RESOURCES COMMITTEE
LETTER OF INTENT
FOR
CS HB 589 (Finance)am

The committee substitute for HB 589 (Finance)am authorizes the construction for the Bradley Lake hydroelectric project and the Susitna River hydroelectric project in accordance with AS 44.83.195 and other statutory provisions.

It is the intent of the legislature that the Alaska Power Authority spend no funds for detailed design work on either of these projects until power sales agreements have been signed by the utilities which will purchase power from the projects. Further, until compliance with the provisions of AS 44.83.193 and AS 44.83.195, which require a review by the Office of Management and Budget of a feasibility study and plan of finance, and submittal by the Alaska Power Authority to the legislature of an independent cost estimate, no funds shall be spent.

Bettye Fahrenkamp
Bettye Fahrenkamp, Chairman
Senate Resources Committee

H B

624

Alaska State Legislature

RONALD L. LARSON
DISTRICT 16B

POUCH V
JUNEAU, ALASKA 99811
(907) 485-3727



BOX 53
PALMER, ALASKA 99645
(907) 745-3826

House of Representatives

MEMORANDUM

April 16, 1984

TO: Members Senate Resources Committee
FROM: Representative Ron Larson *R.L.*
SUBJECT: HB 624

The following piece of legislation passed the House March 20, 1984 by a division of 40 to 0. Any consideration you may be able to give this particular piece of legislation in moving it through the Senate would be very much appreciated.

HB 624 - "An Act relating to qualifications for a homesite."

This legislation will allow current holders of homesite parcels to transfer their rights in the property to another individual, when due to an incapacitating illness or injury, he or she cannot fulfill the on site residency requirements. This allowance would be the same as is currently provided for under the homestead statutes, AS 38.09.030(c)(4).

Under present homesite statutes, if a person has fulfilled all requirements except for residency, he or she could lose the rights to the property because of a serious illness or injury preventing them from residing on the homesite. Often, in the case of a disabling illness or injury, a person is required to live closer to medical facilities or may require special care.

The homesite law does provide for a legal transfer of property upon a person's death; however, if they survive a serious illness or operation, which incapacitates them, they would lose all their rights and property improvements on their homesite. This bill would simply provide the same provisions under the homesite law which were provided for in the homestead statutes, dealing with this type of emergency.

cc: Senator Kerttula

The 1981 amendment added the second sentence of subsection (b).

Sec. 38.08.020. Public notice. The director shall publish notice of the availability of the land in the same manner as provided in AS 38.05.345(e). (§ 2 ch 142 SLA 1977; am § 9 ch 181 SLA 1978; am § 41 ch 85 SLA 1979)

Effect of amendments. — The 1978 amendment deleted the former first sentence, which read "Following classification of land for homesite entry, offerings of homesite entry land shall be made on a rotating basis from among the four judicial districts of the state."

The 1979 amendment substituted "in

the same manner as provided in AS 38.05.345(e)" for "for at least three consecutive weeks through the electronic media and in at least three newspapers of general circulation in the state, at least one of which, if possible, shall be a newspaper of general circulation in the vicinity of the available land."

Sec. 38.08.030. Applications for homesite entry; fees. (a) To qualify for a homesite entry permit, an applicant shall

(1) at the time of application have attained the age of 18;

(2) submit proof acceptable to the commissioner that the applicant is a resident of the state at the time of application, and that the applicant has been a resident of the state for not less than one year immediately preceding the date the application was submitted;

(3) agree to comply with the requirements for obtaining a patent to land set out under AS 38.08.060.

(b) Fees for filing an application may not exceed \$10. (§ 2 ch 142 SLA 1977; am § 10 ch 181 SLA 1978; am § 67 SLA 1983)

Effect of amendments. — The 1978 amendment substituted "three years" for "six years" in paragraph (2) of subsection (a).

The 1983 amendment, effective July 16, 1983, rewrote paragraph (2) of subsection (a).

Sec. 38.08.040. Issuance of entry permit. (a) An applicant meeting the qualifications for homesite entry under AS 38.08.030 shall be issued a revocable permit to occupy and improve the homesite in order to qualify for issuance of patent as provided in this chapter. The application fee is the sole rent chargeable on the permit for its duration.

(b) *[Repealed, § 19 ch 67 SLA 1983.]*

(c) The permit may not be assigned, conveyed or otherwise transferred, but rights under the permit may devolve by testate or intestate succession. An attempt to assign, convey, or to otherwise transfer the permit, is void and constitutes a substantial breach.

(d) An applicant may apply for more than one available homesite. No person holding a homesite patent may apply for a homesite entry permit, no person may simultaneously hold more than one homesite entry permit, and no person who is a member of the homesite entry

r shall adopt regu-
90 to carry out the
but not limited to,
s. (§ 2 ch 142 SLA

limited to" to the end of

t.

lications
unicipalities

ote parcels

3. in accordance with

stead entry. (a)
e for homestead
tural use. State
hapter shall be

ral survey of
state land for
for homestead
survey control

omestead entry
5.
subject to a

try procedure
mestead entry

(1) the minimum distance between homestead entries in the area;
(2) the dimensions, configuration, orientation or other design requirements for a homestead entry in the area;

(3) a description of land within the area that may not be included in a homestead entry;

(4) a requirement that a landmark, monument or other point be used as a point of reference for the measurement of distances within an area;

(5) a specification of the type of stakes to be used to mark the corners of a homestead entry;

(6) the time within which a homestead entry must be staked.

(f) The commissioner shall establish the maximum size of a homestead entry that may be selected in each area designaied under (a) or this section except that the commissioner may not permit an entry on more than

(1) 160 acres of land classified for agricultural use; or

(2) 40 acres of land not classified for agricultural use.

(g) The commissioner may limit the number of persons permitted to stake homestead entries within an area designated under (a) of this section by a lottery of qualified applicants. (§ 1 ch 103 SLA 1983)

Sec. 38.09.020. Homestead entry permits. (a) A homestead entry permit entitles an applicant to enter land within an area designated under AS 38.09.010 and to survey, occupy, and improve the land in order to qualify for a patent under this chapter.

(b) An applicant for a homestead entry permit shall personally stake the corners and flag the boundaries of the land entered under this chapter and shall personally file with the cimmissioner a description of the land entered. A homestead entry shall be described by aliquot parts unless otherwise permitted by the commissioner. (§ 1 ch 103 SLA 1983)

Sec. 38.09.030. Qualification for homestead entry. (a) An applicant for a homestead entry permit shall

(1) submit proof acceptable to the commissioner that the applicant is at least 18 years of age and has been a resident of the state for not less than one year immediately before the date of application;

(2) pay a fee of \$5 per acre according to the description provided by the applicant;

(3) agree to comply with the requirements of AS 38.09.050;

(4) certify that the corners of the land entered have been staked and the boundaries have been flagged;

(5) assume full responsibility for the accuracy of the description of the land filed with the commissioner under AS 38.09.020(b).

(b) Except as provided in (c) of this section, an applicant may not hold more than one homestead entry permit at one time and may not receive a patent to more than one homestead entry in a lifetime.

(c) The homestead entry permit may not be assigned, conveyed, or in any manner transferred except

- (1) by testate or intestate succession;
- (2) to a spouse during marriage;
- (3) by order of a court as part of a divorce settlement;
- (4) to either a member of the immediate family or a grantee of the applicant in the case of an extreme emergency or illness which disables the applicant. (§ 1 ch 103 SLA 1983)

Sec. 38.09.040. Revocation of entry permits. (a) A homestead entry permit may be revoked by the commissioner for any substantial breach of the permit conditions or the requirements of this chapter, including

(1) an assignment, conveyance, or transfer of the permit not authorized under AS 38.09.030(c);

(2) failure of the permit holder to submit a plat of survey to the commissioner within two years after the issuance of the permit or under (b) of this section;

(3) failure of the permit holder to erect a dwelling in the time required under AS 38.09.050(a), except that if the commissioner finds that the dwelling has been nearly completed and progress toward completion is being made at the expiration of the time required, the commissioner may extend the time required for completion for not more than one year;

(4) failure to brush the boundaries of the land within 90 days after issuance of the homestead entry permit;

(5) failure to clear and either put into production or prepare for cultivation 25 percent of the land classified for agricultural use within five years after the issuance of the permit.

(b) If the commissioner determines that a permit holder has made a good faith effort to obtain a plat of survey, the commissioner may extend the time required for completion of the plat of survey for not more than three years after the issuance of the permit.

(c) If a homestead entry permit is revoked under (a) of this section, improvements or personal property upon the land shall be managed under AS 38.05.090 and the state land remains available for homestead entry under this chapter. (§ 1 ch 103 SLA 1983)

Sec. 38.09.050. Issuance of patent. (a) The commissioner shall issue a patent to homestead entry land if the permit holder

(1) resides and lives on the homestead entry land for not less than 25 months within five years after the issuance of the homestead entry permit;

(2) completes an approved survey of the land within two years after the issuance of the permit or under AS 38.09.040(b);

(3) erects a habitable permanent dwelling on the homestead within three years after the issuance of the homestead entry permit;