

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 8672

3593 HRES SB 105 - SB 150

FO. 0307 1241
PALMER, ALASKA 99645
2-10-85

SENATOR ARLISS STURGULEWSKI
STATE CAPITOL
PANCH V
JUNEAU, AK 99811

FEB 25 1985

Dear Senator Sturgulewski:

I URGE YOUR SUPPORT FOR SENATE BILL 105. This bill is A VERY important first step in allowing for the expansion of the PALMER HAY FLATS STATE GAME REFUGE. I would APPRECIATE ANY help in supporting this Bill.

SB 105 would authorize land trades and buyouts of private land within a 910 ACRE STRIP running south along the Glenn Highway from the intersection of the Parks Highway. I AM A hunter, fisherman and an ornithologist; the PALMER HAY FLATS is a tremendous bird rookery, with thousands of migrant birds breeding there; A RECENT FISH AND GAME REPORT has shown that the 910 ACRES under consideration provide vital habitat for SILVER SALMON smolt; THE HAY FLATS ARE ALSO A calving ground for moose; Finally, the FLATS ARE A BEAUTIFUL AREA, with THE Chugiak Mountains creating a breath taking back drop, I would APPRECIATE NOT ENCUMBERING this beauty with development in this AREA. I feel that THESE RESOURCES should be protected, and I AM asking for your support.

THE MATANUSKA BOROUGH ASSEMBLY has passed a resolution in support of SB 105. The ALASKA DEPARTMENT of Fish & GAME has shown that OVER 2000 hunting days, and OVER 8,000 fishing days occurred in the PALMER HAY FLATS last year. I feel that this bill is in the public's best INTEREST.

Sincerely Yours

Stephen W. Johnson
Stephen W. Johnson

*****MATR-00105*****MARCH 18*****

TO: SENATORS DEVRIES AND KERTTULA
REPRESENTATIVES HURLEY AND LARSON

FROM: NORMAN JONES
PO BOX 46
PALMER 99645
745-3491

MAR 18 1985

RE: SB 105, PALMER HAYFLATS
PLEASE SUPPORT THIS BILL.

sb 105

 *
 * DELIVER TO: JDM
 *
 * ORIGINAL
 * SENT: 02/27/95 TIME: 14:27
 * FROM: MARTIE ROZKYDAL
 * SUBJECT: POM - MATR-0059
 * PRINT DATE: 02/27/95 TIME: 14:27
 *

TO: SENATORS STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON, V.
 FISCHER, HALFORD, ZHAROFF AND KERTTULA
 REPRESENTATIVE HURLEY AND LARSON

FROM: TOM SHANKSTER
 PO BOX 3225
 PALMER 99645
 745-5280

RE: SB 105

I AM FOR SB 105 FOR THE MANAGEMENT, USE, AND PROTECTION OF
 THE WET LANDS CLOSE TO POPULATED AREAS THAT WE ARE GETTING HERE IN
 ALASKA.

877 Moore Business Forms, Inc.

RECEIVED
DATE: 02/27/05 TIME: 14:25
FROM: MARTIN ROBINSON
TO: SENATORS
SUBJECT: SB 105 - MATSU
START DATE: 02/27/05 TIME: 14:25

TO: SENATORS STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON, V. FISCHER, HALFORD, ZHAROFF AND KERTTULA REPRESENTATIVES HURLEY AND LARSON.

FROM: DAVID CHURCHILL
PO BOX 871646
WASILLA 99687
H 376-5758
W 659- 4442

RE: SB 105

THIS REFUGE IS THE GATEWAY TO THE MAT-SU BOROUGH, AN IMPORTANT BOUNDARY BETWEEN ANCHORAGE, IT IS A CRITICAL WILDLIFE HABITAT AREA, WILDLIFE VIEWING AREA, A MAJOR HUNTING/TRAPPING AREA, WINTER AND SPRING. RABBIT CREEKS ARE IMPORTANT SALMON FRY REARING STREAMS. THE AREA COVERED UNDER THE BILL PRESENTLY UNDEVELOPED, URGE YOU TAKE IMMEDIATE ACTION.

FROM: DEWIGHT DATT
PO BOX 874472
WASILLA 99687
H 376-2097
W-265- 6551

RE: SB 105

I AM SUPPORTING SB 105 FOR THE STATED REASONS IN THE BILL. WE SHOULD MAKE EVERY EFFORT TO PROTECT ALL OUR WETLANDS AND TO ENSURE FUTURE ACCESS FOR PUBLIC USE OF THIS TYPE OF AREA. EVENTUALLY PUBLIC USE AREAS COULD BECOME SURROUNDED BY PRIVATE LAND AND WILL ELIMINATE PUBLIC ACCESS.

*
* DELIVER TO: JFOM
*
* ORIGINAL
* SENT: 02/04/85 TIME: 13:15
* FROM: MICKI HENSON
* SUBJECT: POM
* PRINT DATE: 02/04/85 TIME: 13:15
*

TO: ALL MEMBERS / SENATE FINANCE
SENATORS FAIKS AND SACKETT (CO-CHAIRS)
SENATOR KERTTULA (VICE-CHAIR)
SENATORS ELIASON, P. FISCHER, HALFORD, FERGUSON

ALL MEMBERS/ SENATE RESOURCES
SENATOR STURGULEWSKI (CHAIR), FAHRENKAMP (VICE-CHAIR)
SENATORS ELIASON, ZHAROFF, HALFORD, COGHILL, V. FISCHER

FROM: CATHY REZABECK
14500 FERNHILL CIRCLE
ANCHORAGE, AK. 99516
PHONE: 345-2363 (HM) 274-8440 (WK)

RE: SB 105

I STRONGLY ENCOURAGE PASSAGE OF SB 105 FOR STATE PURCHASE OF PRIVATE LANDS IN THE POTTER FLATS NEAR THE INTERSECTION OF ROUTES 1 AND 2. THIS LAND MUST NOT EXPERIENCE STRIP DEVELOPMENT WHICH WOULD NOT ALLOW FOR THE STATE GAME REFUGE ON ADJACENT LANDS TO FURTHER ITS PURPOSE OF GAME PRESERVATION AND MANAGEMENT.

FEB 8 1985

 *
 * DELIVER TO: LIOJ *
 * *
 * *
 * ORIGINAL *
 * SENT: 02/07/85 TIME: 17:15 *
 * FROM: VERNITA VESTAL *
 * SUBJECT: POM *
 * PRINT DATE: 02/07/85 TIME: 17:15 *
 * *

23

TO: SENATE FINANCE COMMITTEE: SEN. FAIKS, SACKETT, KERTTULA, ELIASON, P. FISCHER, HALFORD, FERGUSON

RESOURCES: SEN. STURGULEWSKI, FAHRENKAMP, ELIASON, ZHAROFF, HALFORD, COGHILL, V. FISCHER

SEN. DEVRIES, V. FISCHER, JOSEPHSON, KERTTULA
 REP. CLOCKSIN, HURLEY, LARSON, UEHLING

FROM: MARY CORE
 503 W 9TH
 ANCHORAGE, AK. 99501 (H) 274-3382 (H) 274-3621

Just file under

RE: SB 195

ACQUISITION OF PALMER HAY FLATS NOW WILL AVOID WATER POLLUTION PROBLEMS PRESENTLY OCCURING IN THE ANCHORAGE BOWL. THE FILTERING FUNCTION - OF --THE--WETLANDS; THE ABUNDANT FISH AND WILDLIFE POPULATIONS AND THE FINE AESTHETIC VALUES FOR TOURISM JUSTIFY A TRADE OUT.

FEB 8 1985

 *
 * DELIVER TO: LIOJ *
 *
 * ORIGINAL *
 * SENT: 02/07/85 TIME: 17:15 *
 * FROM: VERNITA VESTAL *
 * SUBJECT: POM *
 * PRINT DATE: 02/07/85 TIME: 17:15 *
 *

23

TO: SENATE FINANCE COMMITTEE: SEN. FAIKS, SACKETT, KERTTULA, ELIASON, P. FISCHER, HALFORD, FERGUSON

RESOURCES: SEN. STURGULEWSKI, FAHRENKAMP, ELIASON, ZHAROFF, HALFORD, COGHILL, V. FISCHER

SEN. DEVRIES, V. FISCHER, JOSEPHSON, KERTTULA
 REP. CLOCKSIN, HURLEY, LARSON, UEHLING

FROM: MARY CORE
 503 W 9TH
 ANCHORAGE, AK. 99501 (H) 274-3382 (W) 274-3621

RE: SB 105

ACQUISITION OF PALMER HAY FLATS NOW WILL AVOID WATER POLLUTION PROBLEMS PRESENTLY OCCURING IN THE ANCHORAGE BOWL. THE FILTERING FUNCTION OF THE WETLANDS, THE ABUNDANT FISH AND WILDLIFE POPULATIONS AND THE FINE AESTHETIC VALUES FOR TOURISM JUSTIFY A TRADE OUT.

FEB 1 1985

TO: SENATORS SACKETT, FAIKS, HALFORD, KERTTULA, FERGUSON, P.
FISCHER, ELIASON, STURGULEWSKI, FAHRENKAMP, ELIASON,
ZHAROFF, HALFORD, COGHILL, V. FISCHER

FR: MIKE BRONSON
P O BOX 2176
PALMER 99645
PHONE: 376-3642

RE: SB 105 - PALMER HAY FLATS LEGISLATION

PLEASE SUPPORT SB 105 SPONSORED BY KERTTULA. THIS IS A
GRASSROOTS EFFORT FOR A FAIR SOLUTION TO THE POTENTIAL PROBLEM OF
COMMERCIAL DEVELOPMENT OF WETLANDS IMPORTANT TO THE PUBLIC.
PURCHASE OF THE HAY FLATS FROM WILLING SELLERS WILL KEEP THE
GATEWAY TO THE MATANUSKA-SUSITNA BOROUGH OPEN FOR FISHERMEN AND
HUNTERS.

*****POMK 104 - 1/31/85

TO: SENATORS SACKETT, FAIKS, HALFORD, KERTTULA, FERGUSON, P.
FISCHER, ELIASON, STURGULEWSKI, FAHRENKAMP, ELIASON,
ZHAROFF, HALFORD, COGHILL, V. FISCHER

FR: K. ANNELY GERMAINE
SR B 7460
PALMER 99645
PHONE: 745-6511

RE: SB 105 - PALMER HAY FLATS LEGISLATION

PLEASE SUPPORT SB 105 ACTIVELY. MAT-SU IS ALREADY TOO EXPLOITED
AND COMMERCIAL. THE HAY FLATS BILL CAN BE AN IMPORTANT FIRST
STEP IN SAVING THE VALLEY FROM PERMANENT UGLY DAMAGE. AN
INNOVATIVE BILL LIKE THIS DOES MUCH TO SLOW THE PROGRESS OF THE
MARCH TO STRIP DEVELOPMENT.

*****POMK104-1/31/85

MAR 25 1985

file SB 105
Copy Janfania

March 15, 1985

Senator Kertula
Pouch V
Juneau, Alaska 99811

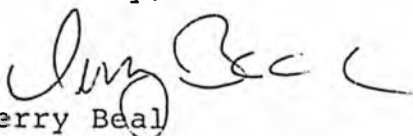
Dear Senator:

I would like to thank you for all the work and time you
have put into SB 105.

Southcentral will enjoy your hard efforts far into the future.

Thanks for being there.

Sincerely,


Terry Beal

Offered: 3/4/85
Referred: Finance

Original sponsor: Kerttula

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

CS FOR SENATE BILL NO. 105 (Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Palmer Hay Flats State Game

7

Refuge; and providing for an effective date."

8

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

9

* Section 1. The legislature determines that wetlands important to the protection of waterfowl and salmon in the Spring Creek area lie outside of the boundaries of the Palmer Hay Flats State Game Refuge. The Spring Creek area also provides one of the major public access points to the hay flats although the land is privately owned. The legislature therefore determines that it is in the public interest to protect the Spring Creek wetlands through extension of the Palmer Hay Flats State Game Refuge under this Act.

16

* Sec. 2. AS 16.20.032(a) is amended to read:

17

(a) The following state-owned land and water is established as

18

the Palmer Hay Flats State Game Refuge:

19

(1) Township 16 North, Range 1 West, Seward Meridian

20

Sections 1 - 12 inclusive

21

Section 13: N1/2

22

Sections 14 - 18 inclusive

23

(2) Township 17 North, Range 1 West, Seward Meridian

24

Section 25: All

25

Section 26: S1/2, S1/2N1/2, N1/2NE1/4, NE1/4NW1/4

26

Section 27: S1/2, SE1/4NE1/4

27

Section 31: Lot 4, SE1/4, E1/2SW1/4, SE1/4NE1/4,

28

S1/2SW1/4NE1/4

29

Section 32: S1/2, S1/2NE1/4, NE1/4NE1/4,

1 SE1/4NW1/4
2 Section 33: All
3 Section 34: All
4 Section 35: All
5 Section 36: All
6 (3) Township 17 North, Range 1 East, Seward Meridian
7 Section 22:
8 excluding NW1/4NW1/4
9 excluding NE1/4NE1/4NE1/4
10 excluding N1/2NE1/4NW1/4
11 Section 27:
12 excluding S1/2S1/2
13 Section 28: N1/2SE1/4
14 Section 31: Lots 5, 7, 8, 9, 10
15 Section 32: NE1/4
16 Section 33: SW1/4NW1/4, including all state tide
17 and submerged land
18 (4) Township 16 North, Range 1 East, Seward Meridian
19 Section 4, 5, 6, 7, 8, 9: All
20 Section 17: N1/2
21 Section 18: N1/2
22 All state tide and submerged land
23 (5) Township 16 North, Range 1 East, Seward Meridian
24 Section 2: Portion lying west of the Alaska
25 Railroad
26 Section 3: Lot 1, excluding portions lying east
27 of the Alaska Railroad centerline, Lots, 2, 3,
28 4, 5, 6, NW1/4, NW1/4, NE1/4
29 Section 10: Lots 1, 2, 3, 4, 6, and portions

1 lying west of the Alaska Railroad
2 Section 15: All state land lying north of the
3 south bank of the Knik River and west of the
4 Alaska Railroad
5 Section 16: All state land lying north of the
6 south bank of the Knik River

7 * Sec. 3. The commissioner of natural resources shall include land
8 acquired from the Matanuska-Susitna Borough in the Palmer Hay Flats State
9 Game Refuge established under AS 16.20.032.

10 * Sec. 4. (a) The commissioner of natural resources may dispose of
11 state land located within the Matanuska-Susitna borough in exchange for
12 privately owned land determined desirable for inclusion in the Palmer Hay
13 Flats State Game Refuge. The commissioner of natural resources may also
14 offer to purchase at fair market value from willing sellers privately owned
15 land determined desirable for inclusion in the Palmer Hay Flats State Game
16 Refuge.

17 (b) An offer made by the commissioner of natural resources under this
18 section for a purchase or exchange that remains unaccepted for two years
19 after tender is withdrawn.

20 (c) An exchange or purchase authorized under (a) of this section
21 shall be accomplished under AS 38.50.

22 (d) The commissioner of natural resources shall include land acquired
23 under this section in the Palmer Hay Flats State Game Refuge established
24 under AS 16.20.032.

25 * Sec. 5. This Act does not prohibit expansion or improvement to the
26 Glenn Highway or the Parks Highway, the potential Wasilla Bypass, or the
27 construction of the interchange at the Parks and Glenn Highways.

28 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
29 10.070(c).

Introduced: 1/28/85
Referred: Resources and
Finance

1 IN THE SENATE

BY KERTTULA

2

SENATE BILL NO. 105

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the Palmer Hay Flats State Game
7 Refuge; and providing for an effective date."

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

9 * Section 1. The legislature determines that wetlands important to the
10 protection of waterfowl and salmon in the Spring Creek area lie outside of
11 the boundaries of the Palmer Hay Flats State Game Refuge. The Spring Creek
12 area also provides one of the major public access points to the hay flats
13 although the land is privately owned. The legislature therefore determines
14 that it is in the public interest to protect the Spring Creek wetlands
15 through extension of the Palmer Hay Flats State Game Refuge under this Act.

16 * Sec. 2. AS 16.20.032(a) is amended to read:

17 (a) The following state-owned land and water is established as
18 the Palmer Hay Flats State Game Refuge:

19 (1) Township 16 North, Range 1 West, Seward Meridian

20 Sections 1 - 12 inclusive

21 Section 13: N1/2

22 Sections 14 - 18 inclusive

23 (2) Township 17 North, Range 1 West, Seward Meridian

24 Section 25: All

25 Section 26: S1/2, S1/2N1/2, N1/2NE1/4, NE1/4NW1/4

26 Section 27: S1/2, SE1/4NE1/4

27 Section 31: Lot 4, SE1/4, E1/2SW1/4, SE1/4NE1/4,

28 S1/2SW1/4NE1/4

29 Section 32: S1/2, S1/2NE1/4, NE1/4NE1/4,

1 SE1/4NW1/4
2 Section 33: All
3 Section 34: All
4 Section 35: All
5 Section 36: All state tide and submerged land
6 (3) Township 17 North, Range 1 East, Seward Meridian
7 Section 22:
8 excluding NW1/4NW1/4
9 excluding NE1/4NE1/4NE1/4
10 excluding N1/2NE1/4NW1/4
11 Section 27:
12 excluding S1/2S1/2
13 Section 28: N1/2SE1/4
14 Section 31: Lots 5, 7, 8, 9, 10
15 Section 32: NE1/4
16 Section 33: SW1/4NW1/4, including all state tide
17 and submerged land

18 (4) Township 16 North, Range 1 East, Seward Meridian
19 Section 4, 5, 6, 7, 8, 9: All
20 Section 17: N1/2
21 Section 18: N1/2
22 All state tide and submerged land

23 * Sec. 3. (a) The commissioner of natural resources may dispose of
24 state land located within the Matanuska-Susitna borough in exchange for
25 135.6 acres now owned by the Matanuska-Susitna Borough in the area of
26 Spring Creek near the Palmer Hay Flats State Game Refuge.

27 (b) The exchange permitted under this section shall be accomplished
28 under AS 38.50.

29 (c) The commissioner of natural resources shall include the land

1 acquired from the Matanuska-Susitna Borough under this section in the
2 Palmer Hay Flats State Game Refuge established under AS 16.20.032.

3 * Sec. 4. (a) The commissioner of natural resources may dispose of
4 state land located within the Matanuska-Susitna borough in exchange for
5 privately owned land determined desirable for inclusion in the Palmer Hay
6 Flats State Game Refuge. The commissioner of natural resources may also
7 offer to purchase at fair market value privately owned land determined
8 desirable for inclusion in the Palmer Hay Flats State Game Refuge.

9 (b) An exchange or purchase authorized under (a) of this section
10 shall be accomplished under AS 38.50.

11 (c) The commissioner of natural resources shall include land acquired
12 under this section in the Palmer Hay Flats State Game Refuge established
13 under AS 16.20.032.

14 * Sec. 5. An offer made by the commissioner of natural resources under
15 this Act for a purchase or exchange that remains unaccepted for two years
16 after tender is withdrawn.

17 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

S B

1 2 0

Offered: 4/15/85
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 CS FOR SENATE BILL NO. 120 (Finance) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to agriculture; and providing for an
7 effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 03.05.010 is amended to read:
10 Sec. 03.05.010. POWERS AND DUTIES OF COMMISSIONER OF NATURAL
11 RESOURCES. (a) The commissioner of natural resources shall
12 (1) direct, administer, and supervise promotional and
13 experimental work, extension services, and agricultural projects for
14 the purpose of promoting and developing the agricultural industry
15 within the state including such fields as horticulture, dairying,
16 cattle raising, fur farming, grain production, vegetable production,
17 and development of other agricultural products;
18 (2) procure and preserve all information pertaining to the
19 development of the agricultural industry and disseminate that informa-
20 tion to the public;
21 (3) assist prospective settlers and others desiring to
22 engage in the agricultural industry in the state with information
23 concerning areas suitable for agriculture and other activities and
24 programs essential to the development of the agricultural industry in
25 the state;
26 (4) review the marketing, financing, and development of
27 agricultural products inside the state including transportation, with
28 special emphasis upon local production, and negotiate for the market-
29 ing of agricultural products of the state with federal and state

1 agencies operating in the state; [AND]

2 (5) regulate and control the entry into the state and the
3 transportation, sale or use inside the state of plants, seeds, vegeta-
4 bles, fruits and berries, nursery stock, shell eggs, animal feeds,
5 remedies and mineral supplements, fertilizers, and agricultural chemi-
6 cals in order to prevent the spread of pests, diseases, or toxic
7 substances injurious to the public interest, and to protect the ag-
8 ricultural industry against fraud, deception and misrepresentation; in
9 this connection the commissioner may require registration, inspection,
10 and testing, and establish procedures and fees;

11 (6) assist in the establishment of commodity marketing
12 associations, and adopt regulations to implement this paragraph.

13 (b) To carry out the requirements of this title, the com-
14 missioner of natural resources may issue orders, regulations,
15 quarantines, and embargoes relating to

16 (1) examination and inspection of premises containing
17 products, articles, and commodities carrying pests;

18 (2) establishment of quarantines for eradication of pests;

19 (3) establishment of standards and labeling requirements
20 pertaining to the sale of agricultural and vegetable seeds and pro-
21 cessed feeds;

22 (4) tests and analyses that [WHICH] may be made and hear-
23 ings that [WHICH] may be held to determine whether the commissioner
24 will issue a stop order or quarantine;

25 (5) cooperation with federal and other state agencies;

26 (6) licensing, bonding, inspection, and auditing of records
27 of public grain, grass, and legume storage or processing facilities.

28 * Sec. 2. AS 03.10.030(a) is amended to read:

29 (a) The farm development or [,] chattel [, OR IRRIGATION] loan

1 made under this chapter

2 (1) may not exceed a term of 30 years, except that a chat-
3 tel loan may not exceed a term of seven years unless the agricultural
4 revolving loan board determines that a longer term is in the best
5 interest of the state and would promote the purposes of this chapter
6 in which case, if the borrower is current in any existing agricultural
7 loan, an existing chattel loan may be combined with and amortized over
8 the same period as an existing farm development loan, or a chattel
9 loan may be extended beyond a seven-year term if the loan is secured
10 by additional real property as collateral;

11 (2) may not, when added to the outstanding balance of other
12 loans made under this chapter, exceed a total outstanding balance of
13 \$1,000,000 except that the total outstanding balance may be increased
14 up to 50 percent if the borrower is a dairy farmer, has held a loan
15 under this chapter for at least two years, and receives written
16 approval under conditions and standards established by the agricul-
17 tural revolving loan board;

18 (3) shall be secured by a real estate or chattel mortgage
19 of any priority, except that the portion of a loan that exceeds
20 \$500,000, when added to prior indebtedness that is secured by the same
21 property, must be secured by a first mortgage;

22 (4) shall bear interest

23 (A) on that portion of the loan below \$1,000,000, at a
24 rate that may not be less than eight percent or more than the
25 commercial rate, unless the commercial rate is eight percent or
26 less; in this paragraph "commercial rate" means the prevailing
27 rate of interest at private lending institutions in the state for
28 loans similar to those referred to in this subsection;

29 (B) on that portion of the loan above \$1,000,000, at a

*delete
words
(inserted)
passed*

1 rate that may not be less than the prime rate prevailing at the
2 time of the loan; in this paragraph, "prime rate" means the prime
3 rate of interest normally charged ^{at} private lending institutions in
4 the state on the day the contract or loan commitment was made.

5 * Sec. 3. AS 03.10.030(c) is amended to read:

6 (c) A short term loan, to be amortized within one year, not to
7 exceed \$350,000 to any one borrower may be made for operating pur-
8 poses, except that a loan made under this subsection may not exceed
9 \$200,000 unless the loan is made to a borrower in a farm disaster area
10 declared under AS 03.10.058. The short-term loan limits may be in-
11 creased up to 50 percent if the borrower has held a loan under this
12 chapter for at least two years and receives written approval under
13 conditions and standards established by the agricultural revolving
14 loan board. An applicant for a short term loan may be required to
15 purchase insurance through the Federal Crop Insurance Act (7 U.S.C.
16 1501 - 1520) as a condition of the loan. The term of a loan made
17 under this subsection may be extended for up to three years by the
18 agricultural revolving loan fund board, in the discretion of the
19 board, upon application by the borrower. An existing short-term loan
20 may be combined with and amortized over the same time period as an
21 existing farm development loan if the agricultural revolving loan fund
22 board determines that the combination is in the best interest of the
23 state and promotes the purposes of this chapter.

24 * Sec. 4. AS 03.10.040 is amended to read:

25 Sec. 03.10.040. CREATION OF FUND. There is an agricultural
26 revolving loan fund, which may [SHALL] not exceed \$100,000,000,
27 [\$75,000,000] to carry out the purpose of this chapter.

28 * Sec. 5. AS 03.10.050(b) is amended to read:

29 (b) The board is composed of seven [FIVE] members appointed by

1 the governor and confirmed by the legislature in joint session. Three
2 members must [SHALL] be persons with background and experience in
3 Alaska agriculture and one additional member must be a person with
4 background and experience in Alaska horticulture. Members of the
5 board serve for overlapping three-year terms. Members of the board
6 are not entitled to receive compensation for their services, but are
7 entitled to [SHALL] receive the same travel pay and per diem as
8 provided by law for boards and commissions.

Section 4 of original
* Sec. 6. AS 03.57.020 is amended to read:

10 Sec. 03.57.020. BOND REQUIRED. Each dealer is required to
11 obtain and file with the director of the division of agriculture of
12 the Department of Natural Resources a bond in the amount of \$25,000
13 [\$5,000]. The bond shall be conditioned on the faithful performance
14 of the legal duties of the dealer as set out in this chapter and the
15 payment for vegetables purchased by the dealer. The bond is payable
16 to the person injured to the extent of the damages. The aggregate
17 liability of the surety for all breaches of the conditions of the bond
18 may not [SHALL, IN NO EVENT,] exceed the amount of the bond. The
19 surety may cancel the bond upon giving 30 days' notice in writing to
20 the director, and after that is [THEREAFTER SHALL BE] relieved of any
21 liability for a breach of condition occurring after the effective date
22 of cancellation.

23 * Sec. 7. AS 38.09.050(a) is amended to read:

24 (a) The commissioner shall issue a patent to homestead entry
25 land if the permit holder

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

29 (2) completes an approved survey of the land within two

1 years after the issuance of the permit or under AS 38.09.040(b);

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

4 (4) brushes the boundaries of the land within 90 days after
5 the issuance of the permit;

6 (5) clears and either puts into production or prepares for
7 cultivation either 25 percent of the land classified for agricultural
8 use or 50 percent of the suitable agricultural land, consisting of
9 [HAVING] class II, or III soils, whichever is more [LESS], within five
10 years after issuance of the permit.

11 * Sec. 8. Sections 1 - 4 of this Act take effect July 1, 1985.

12 * Sec. 9. Section 5 of this Act takes effect immediately in accordance
13 with AS 01.10.070(c).

Introduced: 1/14/85
Referred: Resources and
Finance

1 IN THE HOUSE

BY SHULTZ

2

HOUSE BILL NO. 33

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to agricultural rights to land."

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

8 * Section 1. AS 38.05.059 is repealed and reenacted to read:

9 Sec. 38.05.059. LIMITATIONS AND CONDITIONS ON SALE OR LEASE OF
10 AGRICULTURAL LAND. (a) A person may purchase from the state not more
11 than one parcel of land that is part of an agricultural development
12 project under AS 44.33.475 during any eight-year period.

13 (b) In a sale or other disposal of state land classified as
14 agricultural land the use of the land shall be restricted. The com-
15 missioner shall convey a fee simple conditional title to the surface
16 estate subject to a condition subsequent that the land be used only
17 for agricultural purposes. The commissioner shall reserve a right of
18 reentry after notice and an opportunity for a hearing if the land is
19 used for other than agricultural purposes. A reversion of title upon
20 reentry does not affect the validity of a prior lien or security
21 interest on the land.

22 (c) The lessee of state agricultural land shall receive a lease-
23 hold interest in the surface estate subject to the condition subse-
24 quent that the land leased be used only for agricultural purposes.

25 (d) As a condition to the issuance of a lease or a contract of
26 sale of state land classified as agricultural land, the commissioner
27 may require a farm development agreement and the submission of a
28 conservation plan that establish reasonable requirements based on
29 economic feasibility of development and sound agricultural principles.

1 (e) The commissioner may not convey title under (b) of this
2 section to a person who has not complied with a farm development
3 agreement or conservation plan required by the commissioner.

4 (f) In this section, "agricultural purposes" includes farming,
5 ranching, grazing, and storage or control of agricultural crops or
6 livestock, and the construction of the farm residence of the grantee
7 or lessee as well as other buildings commonly needed for agricultural
8 purposes on not more than 20 acres of the land transferred under this
9 section.

10 * Sec. 2. AS 38.05.321(a) is repealed.

Dick Bradley

1 the Department of Natural Resources a bond in the amount of \$25,000
2 [\$5,000]. The bond must [SHALL] be conditioned on the faithful per-
3 formance of the legal duties of the dealer as set out in this chapter
4 and the payment for vegetables purchased by the dealer. The bond is
5 payable to the person injured to the extent of the damages. The
6 aggregate liability of the surety for all breaches of the conditions
7 of the bond may not [SHALL, IN NO EVENT,] exceed the amount of the
8 bond. The surety may cancel the bond upon giving 30 days' notice in
9 writing to the director, and after that is [THEREAFTER SHALL BE]
10 relieved of any liability for a breach of condition occurring after
11 the effective date of cancellation.

12 * Sec. 5. AS 36 is amended by adding a new chapter to read:

13 CHAPTER 16. PREFERENTIAL USE OF ALASKA AGRICULTURAL PRODUCTS.

14 Sec. 36.16.010. USE OF LOCAL AGRICULTURAL PRODUCTS REQUIRED IN
15 PURCHASES WITH STATE MONEY. In the purchase of agricultural products
16 financed by state money, only agricultural products originating in
17 this state may be used whenever competitively priced, available, and
18 of like quality compared with agricultural products originating out-
19 side the state.

20 Sec. 36.16.020. INSERTION OF CLAUSE IN CALLS FOR BIDS AND IN
21 CONTRACTS. A clause containing the substance of AS 36.16.010 must be
22 inserted in all calls for bids and in all contracts awarded that
23 involve agricultural products.

24 Sec. 36.16.030. INSPECTION CERTIFICATE. Before purchase by the
25 state, an agricultural product originating in this state must receive
26 an inspection certificate from the commissioner of natural resources
27 under AS 03.05.010 or the commissioner of environmental conservation
28 under AS 03.05.011.

29 * Sec. 6. AS 38.09.050(a) is amended to read:

SB 120

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 120 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to agriculture; and providing for an
7 effective date."

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

9 * Section 1. AS 03.05.010 is amended to read:

10 Sec. 03.05.010. POWERS AND DUTIES OF COMMISSIONER OF NATURAL
11 RESOURCES. (a) The commissioner of natural resources shall

12 (1) direct, administer, and supervise promotional and
13 experimental work, extension services, and agricultural projects for
14 the purpose of promoting and developing the agricultural industry
15 within the state including such fields as horticulture, dairying,
16 cattle raising, fur farming, grain production, vegetable production,
17 and development of other agricultural products;

18 (2) procure and preserve all information pertaining to the
19 development of the agricultural industry and disseminate that informa-
20 tion to the public;

21 (3) assist prospective settlers and others desiring to
22 engage in the agricultural industry in the state with information
23 concerning areas suitable for agriculture and other activities and
24 programs essential to the development of the agricultural industry in
25 the state;

26 (4) review the marketing, financing, and development of
27 agricultural products inside the state including transportation, with
28 special emphasis upon local production, and negotiate for the market-
29 ing of agricultural products of the state with federal and state

1 agencies operating in the state; [AND]

2 (5) regulate and control the entry into the state and the
3 transportation, sale or use inside the state of plants, seeds, vegeta-
4 bles, fruits and berries, nursery stock, shell eggs, animal feeds,
5 medicines and mineral supplements, fertilizers, and agricultural chemi-
6 cals in order to prevent the spread of pests, diseases, or toxic
7 substances injurious to the public interest, and to protect the ag-
8 ricultural industry against fraud, deception and misrepresentation; in
9 this connection the commissioner may require registration, inspection,
10 and testing, and establish procedures and fees;

11 (6) assist in the establishment of commodity marketing
12 associations, and adopt regulations to implement this paragraph.

13 (b) To carry out the requirements of this title, the commis-
14 sioner of natural resources may issue orders, regulations, quaran-
15 tines, and embargoes relating to

16 (1) examination and inspection of premises containing
17 products, articles, and commodities carrying pests;

18 (2) establishment of quarantines for eradication of pests;

19 (3) establishment of standards and labeling requirements
20 pertaining to the sale of agricultural and vegetable seeds and pro-
21 cessed feeds;

22 (4) tests and analyses that [WHICH] may be made and hear-
23 ings that [WHICH] may be held to determine whether the commissioner
24 will issue a stop order or quarantine;

25 (5) cooperation with federal and other state agencies;

26 (6) licensing, bonding, inspection, and auditing of records
27 of public grain, grass, and legume storage or processing facilities.

28 * Sec. 2. AS 03.10.030(a) is amended to read:

29 (a) The farm development or [,] chattel [, OR IRRIGATION] loan

1 made under this chapter

2 (1) may not exceed a term of 30 years, except that a chat-
3 tel loan may not exceed a term of seven years unless the agricultural
4 revolving loan board determines that a longer term is in the best
5 interest of the state and would promote the purposes of this chapter
6 in which case, if the borrower is current in any existing agricultural
7 loan, an existing chattel loan may be combined with and amortized over
8 the same period as an existing farm development loan, or a chattel
9 loan may be extended beyond a seven-year term if the loan is secured
10 by additional real property as collateral;

11 (2) may not, when added to the outstanding balance of other
12 loans made under this chapter, exceed a total outstanding balance of
13 \$1,000,000 except that the total outstanding balance may be increased
14 up to 50 percent if the borrower has held a loan under this chapter
15 for at least two years and receives written approval under conditions
16 and standards established by the agricultural revolving loan board;

17 (3) shall be secured by a real estate or chattel mortgage
18 of any priority, except that the portion of a loan that exceeds
19 \$500,000, when added to prior indebtedness that is secured by the same
20 property, must be secured by a first mortgage;

21 (4) shall bear interest

22 (A) on that portion of the loan below \$1,000,000, at a
23 rate that may not be less than eight percent or more than the
24 commercial rate, unless the commercial rate is eight percent or
25 less; in this paragraph "commercial rate" means the prevailing
26 rate of interest at private lending institutions in the state for
27 loans similar to those referred to in this subsection;

28 (B) on that portion of the loan above \$1,000,000, at a
29 rate that may not be less than the prime rate prevailing at the

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time of the loan; in this paragraph, "prime rate" means the prime rate of interest normally charged at private lending institutions in the state on the day the contract or loan commitment was made.

* Sec. 3. AS 03.10.030(c) is amended to read:

(c) A short term loan, to be amortized within one year, not to exceed \$350,000 to any one borrower may be made for operating purposes, except that a loan made under this subsection may not exceed \$200,000 unless the loan is made to a borrower in a farm disaster area declared under AS 03.10.058. The short-term loan limits may be increased up to 50 percent if the borrower has held a loan under this chapter for at least two years and receives written approval under conditions and standards established by the agricultural revolving loan board. An applicant for a short term loan may be required to purchase insurance through the Federal Crop Insurance Act (7 U.S.C. 1501 - 1520) as a condition of the loan. The term of a loan made under this subsection may be extended for up to three years by the agricultural revolving loan fund board, in the discretion of the board, upon application by the borrower. An existing short-term loan may be combined with and amortized over the same time period as an existing farm development loan if the agricultural revolving loan fund board determines that the combination is in the best interest of the state and promotes the purposes of this chapter.

* Sec. 4. AS 03.10.040 is amended to read:

Sec. 03.10.040. CREATION OF FUND. There is an agricultural revolving loan fund, which may [SHALL] not exceed \$100,000,000, [\$75,000,000] to carry out the purpose of this chapter.

* Sec. 5. AS 03.10.050(b) is amended to read:

(b) The board is composed of seven [FIVE] members appointed by the governor and confirmed by the legislature in joint session. Three

1 members must [SHALL] be persons with background and experience in
2 Alaska agriculture and one additional member must be a person with
3 background and experience in Alaska horticulture. Members of the
4 board serve for overlapping three-year terms. Members of the board
5 are not entitled to receive compensation for their services, but are
6 entitled to [SHALL] receive the same travel pay and per diem as pro-
7 vided by law for boards and commissions.

8 * Sec. 6. AS 03.57.020 is amended to read:

9 Sec. 03.57.020. BOND REQUIRED. Each dealer is required to
10 obtain and file with the director of the division of agriculture of
11 the Department of Natural Resources a bond in the amount of \$25,000
12 [\$5,000]. The bond shall be conditioned on the faithful performance
13 of the legal duties of the dealer as set out in this chapter and the
14 payment for vegetables purchased by the dealer. The bond is payable
15 to the person injured to the extent of the damages. The aggregate
16 liability of the surety for all breaches of the conditions of the bond
17 may not [SHALL, IN NO EVENT,] exceed the amount of the bond. The
18 surety may cancel the bond upon giving 30 days' notice in writing to
19 the director, and after that is [THEREAFTER SHALL BE] relieved of any
20 liability for a breach of condition occurring after the effective date
21 of cancellation.

22 * Sec. 7. AS 36 is amended by adding a new chapter to read:

23 CHAPTER 16. PREFERENTIAL USE OF ALASKA AGRICULTURAL PRODUCTS.

24 Sec. 36.16.010. USE OF LOCAL AGRICULTURAL PRODUCTS REQUIRED IN
25 PURCHASES WITH STATE MONEY. In the purchase of agricultural products
26 financed by state money, only agricultural products originating in
27 this state may be used whenever competitively priced, available, and
28 of like quality compared with agricultural products originating out-
29 side the state.

1 Sec. 36.16.020. INSERTION OF CLAUSE IN CALLS FOR BIDS AND IN
2 CONTRACTS. A clause containing the substance of AS 36.16.010 must be
3 inserted in all calls for bids and in all contracts awarded that
4 involve agricultural products.

5 Sec. 36.16.030. INSPECTION CERTIFICATE. Before purchase by the
6 state, an agricultural product originating in this state must receive
7 an inspection certificate from the commissioner of natural resources
8 under AS 03.05.010 or the commissioner of environmental conservation
9 under AS 03.05.011.

10 * Sec. 8. AS 38.09.050(a) is amended to read:

11 (a) The commissioner shall issue a patent to homestead entry
12 land if the permit holder

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

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

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

20 (4) brushes the boundaries of the land within 90 days after
21 the issuance of the permit;

22 (5) clears and either puts into production or prepares for
23 cultivation either 25 percent of the land classified for agricultural
24 use or 50 percent of the suitable agricultural land, consisting of
25 [HAVING] class II, or III soils, whichever is more [LESS], within five
26 years after issuance of the permit.

27 * Sec. 9. Sections 1 - 4 and 7 of this Act take effect July 1, 1985.

28 * Sec. 10. Section 5 of this Act takes effect immediately in accordance
29 with AS 01.10.070(c).

Analysis for CSSB 120 (Finance)

The CS for SB 120 allows the Department of Natural Resources to take a number of actions that will help solve some of the current problems related to agriculture in Alaska. Some of the changes are necessary to clarify the functions of the department and the Division of Agriculture, others provide the department with additional flexibility to help farmers help themselves. The following analysis briefly describes the effects of each section.

Section 1(a)

(5) (Page 2, line 4) adds shell eggs to the list of items regulated by the department. The Division of Agriculture currently performs inspections on shell eggs but is not specifically authorized to do so.

(6) (Page 2, line 11) allows the establishment of commodity marketing associations, composed of producers of specific products, that will assist farmers in developing markets for their products.

Section 1(b)

(3) (Page 2, lines 20-21) adds processed feeds to the items for which the department may establish standards and labeling requirements.

(6) (Page 2, lines 26-27) allows the department to develop regulations for bonding or inspecting grain, grass or legume warehouses.

Section 2(a)

(Page 2, line 29) removes irrigation from the list of loans funded by the Agricultural Revolving Loan Fund.

(1) (Page 3, lines 3-10) provides the Agricultural Revolving Loan Fund (ARLF) with the flexibility to rewrite chattel loans if the borrower is current on existing loans.

(2) (Page 3, lines 13-17) allows the loan total for a dairy farm borrower to exceed the one million dollar limit by up to fifty percent if the borrower has held an agricultural loan for at least two years and meets board conditions and standards.

(4) (Page 3, line 23) and (5) (Page 3-4, line 29, lines 1-4) requires interest on loan amounts over one million to be at least equal to the prime rate charged by private lending institutions.

Section 3 (c)

(c) (Page 4, lines 10-14 and lines 19-23) allows short term loan limits to increase by up to fifty percent if the borrower has held an agricultural loan for at least two years and meets conditions set by the loan board, and allows the short term loan to be combined with other farm loans and amortized over a longer time period.

Section 4

(Page 4, line 26) raises the ceiling for the ARLF to \$100 million from \$75 million. The fund is currently capitalized at \$68 million and interest accruals and additional appropriations could cause the ceiling to be exceeded.

Section 5(b)

(b) (Page 4, line 29) increases the membership of the ARLF board to seven from five members. Three of the members must have an agricultural background and one must have an horticultural background.

Section 6

(Page 5, line 12) raises the required bond amount for vegetable dealers to \$25,000 from \$5,000 to protect the producer from losses.

Section 7(a)

(5) (Page 6, lines 8-9) amends the section on land clearing requirements for agricultural homesteads.

ARLF Summary Sheet

- Current capitalization \$67.5 M
- 8% minimum interest
- \$1 M maximum total to any farm unit
- Development and irrigation loans
 - up to 30 year term
 - ARLF Board seldom approves over 25 years
- Chattel loans
 - up to 7 year term
 - or life of chattel
- Operating loans
 - one year term - up to 3 years extension
 - \$200,000 maximum
- Processing loans
 - up to 30 year term
 - \$250,000 maximum
- Clearing loans
 - up to 20 year term
 - \$250,000 maximum

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST FISCAL DETAIL
 Bill/Resolution No.: CSSB 120(Fin) Agency Affected: Natural Resources
 Title: Agriculture Omnibus Program Category Affected: NRMEC
 Sponsor: Senate Finance BRU, Program or Subprogram(s) Affected:
 Requestor: Senator Finance Committee
 Date of Request: _____ Agriculture

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL	0	0				
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REVENUE	0	0				
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Prepared By: _____ Phone: 465-4523
 Division: Jan Faiks, Co-chairman Date: 4/15/85
Senate Finance Committee
 Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

Supersedes F.Y. of 3/20/85
 7/1/84

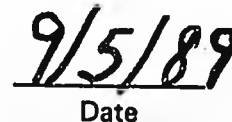


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Signature of Camera Operator


Date

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150

HOUSE
COMMITTEE REPORT

5/6

(9)

Date referred: 3/19/86

FURTHER REFERRALS: JUDICIARY

DATE: 5/5/86

The RESOURCES Committee has considered CSSB 150 (Jud) am

"An Act making miscellaneous amendments to the Alaska Water Use Act (AS 46.15); establishing procedures for administrative and judicial adjudication of water rights under that Act; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with HCS CSSB 150 (RES) same title
- new title

and recommends DO PASS

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Shultz [Signature]

Herrmann Adelheid Herrmann

Cato Bette Cato

Thompson Frank W. Thompson

Wallis Kay Wallis

[Signature] No Rec.

Jenkins

[Signature] No Rec.

Pearce

[Signature]

Sund

M.W. Miller No. Rec.

Miller (NP)

[Signature] Co-Chairman

[Signature] Shultz

Bradley
5/5/86

Handwritten notes:
2/12
5/5/86
12:25 pm

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 150 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making miscellaneous amendments to the Alaska
7 Water Use Act (AS 46.15); establishing procedures for
8 administrative and judicial adjudication of water
9 rights under that Act; and providing for an effective
10 date."

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

12 * Section 1. AS 46.15.040 is amended by adding a new subsection to
13 read:

14 (d) The commissioner's issuance of a permit under AS 46.15.080
15 or of a certificate under AS 46.15.065 or 46.15.120 does not represent
16 a guarantee by the state to the permittee or certificate holder that
17 water will be available for appropriation at a certain volume, quali-
18 ty, artesian pressure, or cost. This subsection does not, however,
19 alter the right a permittee or certificate holder may have against a
20 later appropriator, including a government agency.

21 * Sec. 2. AS 46.15.065 is amended by adding a new subsection to read:

22 (f) The adjudication process for a declaration filed under (a)
23 of this section that is pending before the commissioner on the effec-
24 tive date of this Act continues under the procedures set out in this
25 section until the commissioner finally determines whether the declar-
26 ant is entitled to a certificate. If a certificate is issued under
27 this section, the certificate holder may be included as a participant
28 in an adjudication under AS 46.15.165 or 46.15.166.

29 * Sec. 3. AS 46.15.140 is amended to read:

1 Sec. 46.15.140. ABANDONMENT, FORFEITURE, AND REVERSION OF APPRO-
2 PRIATIONS. (a) The commissioner may declare an appropriation to be
3 wholly or partially abandoned and revoke or amend the certificate of
4 appropriation as to the unused quantity of water if an appropriator,
5 with intention to abandon, does not make beneficial use of all or a
6 part of the [HIS] appropriated water. [AN APPROPRIATION SO FORFEITED
7 AND ABANDONED REVERTS TO THE STATE AND THE WATER BECOMES UNAPPROPRI-
8 ATED WATER.]

9 (b) The commissioner may declare that an appropriator has [AN
10 APPROPRIATION TO BE] wholly or partially forfeited an appropriation,
11 and shall revoke the certificate of appropriation in whole or in part
12 if the [AN] appropriator voluntarily fails or neglects, without suffi-
13 cient cause, to make use of all or a part of the [HIS] appropriated
14 water for a period of five successive years. A person who has a
15 permit to develop a use of water including but not limited to
16 residential, agricultural, industrial, or mining use, but has not
17 developed that property to the point of water use before permit
18 expiration, may file a request for permit extension with the commis-
19 sioner.

20 * Sec. 4. AS 46.15.140 is amended by adding new subsections to read:

21 (c) Failure to use beneficially for five successive years all or
22 part of the water granted in a certificate of appropriation raises a
23 rebuttable presumption that the appropriator has abandoned or for-
24 feited the right to use the unused quantity of water and shifts to the
25 appropriator the burden to prove otherwise to the satisfaction of the
26 commissioner.

27 (d) If the commissioner revokes a certificate in whole or in
28 part, the portion of the certificate covered by the revocation reverts
29 to the state and the water becomes unappropriated water.

1 * Sec. 5. AS 46.15.145(f) is amended to read:

2 (f) At least once each 10 years the commissioner shall review
3 each reservation under this section to determine whether the purpose
4 described in (a) of this section for which the certificate reserving
5 water was issued and the findings described in (c) of this section
6 still apply to the reservation. If the commissioner determines that
7 the purpose, or part or all of the findings, no longer apply to the
8 reservation, the commissioner [HE] may revoke or modify the certifi-
9 cate reserving the water after notice, hearing when appropriate, and a
10 written determination that the revocation or modification is in the
11 best interests of the state [IN ACCORDANCE WITH AS 46.15.140(b)].

12 * Sec. 6. AS 46.15 is amended by adding new sections to read:

13 Sec. 46.15.165. ADMINISTRATIVE ADJUDICATIONS. (a) The commis-
14 sioner may, by order, initiate an administrative adjudication to
15 quantify and determine the priority of all water rights and claims in
16 a drainage basin, river system, ground water aquifer system, or other
17 identifiable and distinct hydrologic regime, including any hydrologi-
18 cally interrelated surface and ground water systems.

19 (b) In the order initiating an administrative adjudication, the
20 commissioner shall describe the appropriate geographic and hydrologic
21 boundaries of the adjudication area. During the adjudication, the
22 commissioner may adjust the boundaries to ensure the efficient admin-
23 istration of water appropriations among users.

24 (c) Upon initiation of the adjudication, the commissioner shall

25 (1) serve the order on each applicant, certificate holder,
26 or permittee listed in the department's records within the adjudica-
27 tion area;

28 (2) serve the order on any agency of the federal, state, or
29 a local government with management authority over land or water within

1 the adjudication area;

2 (3) serve the order on any person who owns or claims land
3 within the adjudication area if the land is held in trust by the
4 United States for the person or if the patent, deed, or certificate to
5 the land from the United States was issued under 25 U.S.C. 334 (Indian
6 General Allotment Act of February 8, 1887, 24 Stat. 389, as amended
7 and supplemented), 25 U.S.C. 372 (the Allotment Act of June 25, 1910,
8 36 Stat. 855), 43 U.S.C. 270-1, 270-2 (the Allotment Act of May 17,
9 1906, 34 Stat. 197), any other allotment act, or the Alaska Native
10 Townsite Act of May 25, 1926, 44 Stat. 629, and serve the order on the
11 United States on behalf of the person;

12 (4) serve the order on the United States and the appropri-
13 ate governing body of the Annette Island Reserve established by 25
14 U.S.C. 495 (the Act of March 3, 1891, 26 Stat. 1101) if the land or
15 water, including hydrologically interconnected water, of the Annette
16 Island Reserve is within the adjudication area;

17 (5) serve the order on any other person claiming a federal
18 reserved water right within the adjudication area;

19 (6) serve the regional corporation and village corporation
20 established under 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement
21 Act) that has a pending land selection or has acquired ownership to
22 land under that act that is located within the adjudication area; and

23 (7) serve the order on each mining claimant of record with
24 the United States and the state within the adjudication area as of the
25 date of the order initiating the administrative adjudication.

26 (d) Service of an order under (c) of this section does not
27 constitute an admission by the state that the person served with the
28 order has a water right.

29 (e) Service of the order under (c)(1) of this section is suffi-

1 cient if mailed by certified mail, return receipt requested, to the
2 last known address that the applicant, certificate holder, permittee,
3 or claimant has given to the division of the department responsible
4 for administration of water rights. A person served under (c)(1) -
5 (7) of this section who fails to appear in a timely manner and assert
6 a claim as prescribed by the commissioner is estopped from subsequent-
7 ly asserting an objection to the adjudication of that person's water
8 rights within the adjudication area, unless the person is entitled to
9 a federal reserved water right and has failed to consent under (k) of
10 this section.

11 (f) In an adjudication under this section, the commissioner may
12 appoint an impartial qualified person as a master to preside over the
13 adjudication, to hold hearings, to take testimony, to collect evi-
14 dence, to propose to the commissioner an order adjudicating the valid-
15 ity of, quantifying, and determining the priority of all water rights,
16 and to take other action the commissioner decides is necessary.

17 (g) A state agency may assert a water right on behalf of the
18 state in the adjudication.

19 (h) A division of the department or another state agency may
20 provide documentary and testimonial evidence, research, and scientific
21 analysis during the adjudication. The commissioner may provide evi-
22 dence, research, or analysis from sources outside government.

23 (i) In conducting an adjudication, the commissioner may take
24 action necessary for the efficient and fair administration and use of
25 the state's water including

26 (1) determining indispensable, necessary, and convenient
27 parties to the adjudication;

28 (2) classifying applicants, certificate holders, permit-
29 tees, and claimants in groups that share similar interests, such as by

1 the amount of water used or the type of use, and restricting their
2 active participation in the adjudication by appointing group represen-
3 tatives for the purposes of receiving notices, examining witnesses,
4 and other adjudicatory functions;

5 (3) entering interlocutory orders appropriate to a disposal
6 of all or part of the issues in the adjudication, and designating the
7 orders as final for the purposes of an appeal to the superior court
8 under (1) of this section; and

9 (4) allocating to a participant the extra costs that the
10 state has incurred in conducting the adjudication because the partici-
11 pant has in bad faith asserted a claim to water wholly without merit
12 or has unreasonably delayed the proceeding.

13 (j) For the purposes of asserting a water right in an adjudica-
14 tion, a certificate issued under this chapter is prima facie evidence
15 of the water right and its priority date.

16 (k) If the commissioner has initiated the adjudication and the
17 federal government or a private person who has been served under
18 (c)(2) - (4) of this section asserts a federal reserved water right
19 but fails to consent in writing to the adjudication, then the commis-
20 sioner may exclude the federal government or the person, respectively,
21 as participants in the adjudication. The commissioner may negotiate
22 the terms of the written consent.

23 (l) A person adversely affected by a final order of the commis-
24 sioner adjudicating water rights under this section may appeal to the
25 superior court within 30 days after the decision is mailed or de-
26 livered to the person.

27 (m) The commissioner may adopt regulations setting out proce-
28 dures for administrative adjudications under this section.

29 Sec. 46.15.166. JUDICIAL ADJUDICATIONS. (a) Instead of initi-

1 ating an adjudication under AS 46.15.165, the commissioner may, with
2 the concurrence of the attorney general, if a federal reserved water
3 right has been or might be asserted by an agency of the United States
4 on its own behalf or on behalf of a person described in AS 46.15.-
5 165(c)(3) - (6), file on behalf of the state a complaint in superior
6 court to initiate a judicial adjudication consistent with 43 U.S.C.
7 666 to quantify and determine the priority of all water rights in a
8 drainage basin, river system, ground water aquifer system, or other
9 identifiable and distinct hydrologic regime, including any hydrologi-
10 cally interrelated surface and ground water systems.

11 (b) The venue for an action filed under (a) of this section
12 shall be established by rule of the supreme court under AS 22.10.030.

13 (c) In a complaint brought under (a) of this section, the court
14 may appoint an impartial, qualified person as a master to hold hear-
15 ings, take testimony, collect evidence, and make recommendations to
16 the court regarding the scope and content of a proposed judicial
17 decree that would finally adjudicate the validity of water rights,
18 quantify them, and determine priorities among the water right appro-
19 priations in the adjudication area. Employment by a federal, state,
20 or local government agency does not disqualify an individual from
21 appointment as master under this subsection if the court determines
22 that the individual is otherwise impartial and qualified to act as
23 master. The master may, with the court's permission, take action that
24 the commissioner would be authorized to take in an administrative
25 adjudication under AS 46.15.165.

26 (d) In an adjudication under this section, the court may incor-
27 porate in an order or judgment final orders of the commissioner previ-
28 ously issued under AS 46.15.165.

29 (e) Proceedings under this section shall be conducted without a

1 jury.

2 Sec. 46.15.167. EFFECT OF DECISION. The final order of the com-
3 missioner under AS 46.15.165 and the final judgment of a court under
4 AS 46.15.166 are binding on each party to the adjudication and on each
5 person who subsequently makes an application for a water right. The
6 court or the commissioner may retain jurisdiction for a period of time
7 necessary to implement an adjudication order or judgment and to pro-
8 vide for subsequent water appropriations.

9 Sec. 46.15.168. OTHER ACTIONS. (a) The state may timely inter-
10 vene as a party in a superior court action potentially involving a
11 determination of the validity, quantity, use, reservation, or priority
12 of water rights.

13 (b) The commissioner may accept a remand from a state or federal
14 court of a water rights dispute and may administratively adjudicate
15 the dispute under AS 46.15.165.

16 (c) The commissioner may enter into arbitration to resolve a
17 water rights dispute.

18 (d) The commissioner may incorporate and apply as binding upon
19 the parties to an administrative adjudication under AS 46.15.165 any
20 court decree concerning the state hydrologic regime involved in the
21 adjudication.

22 Sec. 46.15.169. FEDERAL RESERVED WATER RIGHTS. This chapter
23 does not represent a commitment by the state to a specific federal re-
24 served water right.

25 * Sec. 7. AS 46.15 is amended by adding new sections to read:

26 Sec. 46.15.255. ENFORCEMENT. (a) In addition to a penalty
27 imposed under AS 46.15.180 for violation of an order issued under this
28 chapter, the commissioner may

29 (1) remove or abate unpermitted works of appropriation,

1 diversion, impoundment, or withdrawal;

2 (2) install corrective controls or control works; and

3 (3) seek enforcement of the order by filing an action in
4 the superior court.

5 (b) A person who violates an order issued under AS 46.15.180 is
6 liable for all costs of removal, abatement or installation and for
7 court costs and attorney fees incurred by the state in seeking en-
8 forcement of the order.

9 Sec. 46.15.256. DATA COLLECTION AUTHORITY. To carry out the
10 provisions of this chapter, the commissioner may

11 (1) inspect books, records, meters, gauges, well logs,
12 works of appropriation, diversion, impoundment, withdrawal, or control
13 and other relevant information or physical condition;

14 (2) enter private property at all reasonable times after
15 obtaining a search warrant from a judicial officer if the owner re-
16 fuses consent to entry; and

17 (3) compel the production of relevant information by a
18 subpoena or subpoena duces tecum signed by the commissioner if the
19 commissioner reasonably believes the information is necessary to carry
20 out the purposes of this chapter.

21 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).

Resolution No. 86-8

PARTICIPATION OF MILITARY RESERVATIONS IN WATER RESOURCES
PLANNING IN ANCHORAGE BOWL

The Municipality of Anchorage and the Division of Land and Water Management of the Alaska Department of Natural Resources are engaged in comprehensive planning for future public water supplies in the Anchorage Bowl area. The only present and potential sources of water to meet this vital need are Ship Creek, groundwater sources (through public and private wells) and Eklutna Lake (through the Municipality's Eklutna Water Project). Fort Richardson and Elmendorf Air Force Base are significant users of water from both Ship Creek and groundwater sources. The extent of the military's need and actual use is not known, yet this information is vital if a comprehensive water management plan for the Anchorage Bowl is to be achieved.

The Alaska Water Resources Board urges the Governor to:

- a. express to the Commanding Officer, Elmendorf Air Force Base and the the Commanding Officer, Fort Richardson, the State's concern that effective water planning and management for the Anchorage Bowl area cannot be achieved without the active participation of the military reservations which also rely on these water sources;
- b. encourage the commanding officers to direct their respective staffs to work closely with the Alaska Department of Natural Resources in its analysis of current and projected water demands on Ship Creek and adjacent groundwater sources; and
- c. direct copies of the aforementioned correspondence to the Commissioner of Natural Resources and to the Mayor of Anchorage.

Adopted this 27th day of February, 1986
ALASKA WATER RESOURCES BOARD

Cyril R. Wanamaker
Cyril R. Wanamaker, Chairman

Resolution No. 86-9

ALASKA TO ADMINISTER SECTION 402 (b) NPDES PERMITS

- WHEREAS: Alaska has seven classifications of water; however, with the exception of the Chena River and Nolan Creek, the most stringent water quality criterion (drinking water) applies to all waters of the State, and
- WHEREAS: EPA, through its Section 402 NPDES Permit process, incorporates the State's water quality standards, and
- WHEREAS: The current process of enforcement of water quality standards in the State of Alaska is a duplicative effort between EPA and the Alaska Department of Environmental Conservation, and
- WHEREAS: EPA maintains its 402 permitting and enforcement office in Seattle making it difficult and expensive for both EPA and industry in Alaska, and
- WHEREAS: Section 402 (b) of the Clean Water Act authorizes states to assume authority for issuing and enforcement of National Pollutant Discharge Elimination (NPDES) Permits, and
- WHEREAS: 37 states in the United States have assumed the issuance and enforcement of the NPDES permits, THEREFORE

BE IT RESOLVED that the Alaska Water Resources Board requests the Alaska Department of Environmental Conservation to reinvestigate the feasibility of administering the Section 402 NPDES permits, and

BE IT FURTHER RESOLVED that the Alaska Water Resources Board requests the Alaska Department of Environmental Conservation to report its conclusion which includes staffing and fiscal requirements of this investigation to the Governor of the State, the Legislature and the Water Resources Board no later than July 1, 1986, and

BE IT FURTHER RESOLVED that copies of this resolution be sent to the Governor of the State of Alaska, the Commissioners of the Alaska Department of Natural Resources and Environmental Conservation, the Chairmen of the House and Senate Resources Committees, Senator's Stevens and Murkowski and Congressman Young.

Adopted this 27 day of February, 1986
ALASKA WATER RESOURCES BOARD

Cyril R. Wanamaker
Cyril R. Wanamaker, Chairman

Resolution No. 86-10

PLACER MINING WATER QUALITY REGULATIONS

The placer mining industry in Alaska is presently confronted with a serious and immediate threat to its existence. This industry now furnishes the economic base upon which many small Alaskan communities exist. Other larger communities have a large economic stake in the industry.

The threat to the industry originates in government regulations which, if aggressively addressed by the government, could be ameliorated to the extent that the industry could survive and advance to meet desirable standards.

The threat to the industry comes at a time when industries having sound markets and diversifying the primary economic base of the State are sorely needed.

The Alaska Water Resources Board recommends that the Governor's Office take immediate steps to achieve a level of cooperation between the various agencies of the State, and between the State and the involved Federal agencies, which will result in the continuance of a viable placer mining effort in Alaska.

Adopted this 27th day of February, 1986
ALASKA WATER RESOURCES BOARD

Cyril R. Wanamaker

Cyril R. Wanamaker, Chairman

Resolution No. 86-11

RESOLUTION OF CONFLICT IN EFFLUENT REQUIREMENTS

Federal and State water quality regulations concerning point of measurement for turbidity are inconsistent, setting up a conflict of enforcement for placer mining effluent. Placer miners may be able to comply with one set of regulations but not both.

The Alaska Water Resources Board requests you to direct the Department of Environmental Conservation to recommend a plan to eliminate the conflict. The Board respectfully requests a report on the progress on this matter at its next meeting.

Adopted this 27th day of February, 1986
ALASKA WATER RESOURCES BOARD

Cyril R. Wanamaker

Cyril R. Wanamaker, Chairman

Resolution No. 86-12

MILITARY COOPERATION REGARDING FEDERAL RESERVED WATER
RIGHTS AND HAZARDOUS WASTE MANAGEMENT AND DISPOSAL

The State of Alaska has the responsibilities under state and federal law to recognize and adjudicate federal reserved water rights, and to establish procedures for the transportation and disposal of hazardous and toxic wastes. Neither of these functions can be performed in a manner which protects the health and welfare of all of the State's residents, unless the military community within Alaska also actively contributes its information and policy requirements. At the present time, this active involvement has not occurred.

The Alaska Water Resources Board urges that the Governor communicate these concerns to the commanding officers of the following military installations, and invite the active participation of their respective staffs on the joint Federal-State Reserved Rights Task Force and with the Alaska Department of Environmental Conservation, in these vital areas:

Elmendorf Air Force Base, Anchorage
Eielson Air Force Base, Fairbanks
Fort Wainwright, Fairbanks
Fort Richardson, Anchorage
Fort Greeley, Delta Junction

Adopted this 27th day of February, 1986
ALASKA WATER RESOURCES BOARD

Cyril R. Wanamaker

Cyril R. Wanamaker, Chairman

Resolution No. 86-13

PRIORITIZATION OF ALASKA'S WATER RESOURCES PROGRAMS

The Alaska Water Resources Board serves as an advisory group to the Governor on all matters relating to the use and appropriation of water in the State of Alaska. These duties, as enumerated in AS 46.15.210, include evaluating and advising the Governor on the effect and adequacy of all laws and regulations governing water rights, the multi-purpose uses of water, the prevention of pollution and the protection of fish and game, studies of the state's water supplies and plans for future requirements, and development of the state's water resources.

The Board recognizes that declining revenues will impact funding of programs statewide, and that all state agencies face the difficult task of reducing budgets, manpower and programs. The Department of Natural Resources water rights program has already been impacted by a large reduction in staff. The Alaska Water Resources Board is vitally concerned about the long term effects that reductions in programs such as this may have on wise water resources management in Alaska.

The Alaska Water Resources Board requests that the Commissioners of the Departments of Natural Resources, Environmental Conservation, and Fish & Game attend the next bi-annual meeting of the Board, to be held in Anchorage on September 11 & 12, 1986, to present and discuss the water resources programs which they administer, and the process of program and budget prioritization and how this will be reflected in the preparation of these department's fiscal year 1988 water resources budgets.

Adopted this 27th day of February, 1986
ALASKA WATER RESOURCES BOARD

Cyril R. Wanamaker

Cyril R. Wanamaker, Chairman

Resolution No. 86-14

DEPARTMENT OF NATURAL RESOURCES WATER MANAGEMENT STAFFING

The Alaska Water Resources Board recognizes the need for reductions-in-force and increased organizational efficiency throughout state government. The Board further respects the efforts being made to make State government more accessible to the citizens of Alaska by moving personnel and program responsibilities to regional offices.

However, the Board wishes to express its deep concern that a one-person Water Management Section in the Central Office is not only inadequate but impractical.

The Water Resources Board has argued strongly for consistency, cooperation and communication on water related matters in DNR and throughout state government. We have also pressed for improved water management planning to help avoid problems rather than having to address crises.

By nature and direction, Regional offices are reactive, responsive, and limited in scope to day-to-day issues and matters within their specific area. It is the role of the State Water Section to assure consistency, develop pro-active positions, coordination, and long range planning.

In order to accomplish the important and appropriate work of the Central Water Office, the Alaska Water Resources Board, respectfully requests that the State Water Section have, at minimum, two people---including a support position.

Adopted this 27th day of February, 1986
ALASKA WATER RESOURCES BOARD

Cyril R. Wanamaker

Cyril R. Wanamaker, Chairman

Resolution No. 86-15

COORDINATION OF INSTREAM FLOW PROTECTION PROGRAMS

The Alaska Water Resources Board has learned that the Alaska Department of Fish and Game (ADF&G) will be initiating an Instream Flow Program funded by the Dinghall-Johnson Expansion Act, through revenue sharing disbursements. Although the ADF&G program is designed to protect sport fisheries only, there is both an opportunity and a need to coordinate the technical instream flow expertise of the Alaska Department of Natural Resources (ADNR) with the efforts of ADF&G.

It is recommended by the Alaska Water Resources Board that ADF&G and ADNR coordinate their efforts and expertise to establish:

1. criteria for determining a list of priorities of streams requiring instream flow protections; and
2. a realistic ranking of those streams that need instream flow protection based on the criteria established above.

The criteria for determining those priorities should include, as a minimum, the following considerations:

1. Current appropriation threats, and
2. Potential water appropriation conflicts, and
3. Proximity to population centers.

The Alaska Water Resources Board feels that it is not cost effective for ADF&G to duplicate, in its instream flow program, the data collection function and service of DGGS.

Therefore, the Alaska Water Resources Board recommends that ADF&G contract the services of DGGS to perform the technical data collection functions necessary to determine minimum instream flows for the protection of those sport fisheries identified and prioritized in the preceding recommendation.

Adopted this 27th day of September, 1986
ALASKA WATER RESOURCES BOARD

Cyril R. Wanamaker

Cyril R. Wanamaker, Chairman

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March 12, 1985

Done

Honorable Richard Shultz, Co-Chair
House Resources Committee
Alaska House of Representatives
Pouch V
Juneau, AK 99811

RE: Senate Bill No. 150 (Amendments to
Alaska Water Use Act, AS 46.15)
Our File No. 1515-1

Dear Mr. Shultz:

I am a member of the Alaska Water Resources Board, established under AS 46.15.190. I attended the semi-annual meeting of the Water Resources Board in Juneau on March 5-7, 1985. The Board met with the Senate Resources Committee on water resource matters (including SB 150) on March 8; however, I was unable to participate in that meeting because I had to return to Anchorage early.

In this letter, I would like to offer these observations concerning SB 150, and some proposed amendments. These views are my own, though they were discussed among the Water Resources Board. Some of them are, I believe, contained in a letter to you from the Board. The principal author of that letter is Mike Neimeyer, who is an attorney and a member of the Board.

I believe that the proposed amendments to the Alaska Water Use Act which are contained in SB 150 are necessary for the efficient administration of water rights in Alaska. These include federal reserved water rights which are presently

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unquantified and pose the greatest unknown factor in the future allocation of water resources in Alaska. My involvement in water issues, and in the dilemma of unquantified federal reserved water rights, began during my service as an assistant attorney general for the State of Alaska in the late 1970's. I represented the State in litigating the case of Paug-Vik, Inc., Ltd. v. LeResche, 633 P.2d 1015 (Alaska 1981), which was the first Alaska case dealing with aboriginal-title and federal reserved right water claims.

In 1980, based in part upon the realization that the existing Alaska Water Use Act contained no procedures for the effective, binding adjudication of these claims in a manner which complies with the McCarran Amendment, 43 U.S.C. Sec. 666 (which grants the state jurisdiction over federal entities to determine their water rights), I drafted the precursor of Senate Bill 150. That bill has undergone significant refinement since that time, and has been modified to reflect other states' experiences in adjudicating federal reserved rights. At the present time, I believe the bill generally represents a "state of the art" procedural statute to enable the adjudication of federal water rights in state courts. I urge its adoption by the Legislature.

I do have some specific suggestions for amendments which would resolve the concerns raised by Water Board members at our recent meeting. As you know, Sections 1 through 4 of SB 150 are general, "housekeeping" measures which clarify existing portions of the Alaska Water Use Act, while Section 5 of the bill comprises the procedural measures to deal with basin-wide water adjudications, including federal reserved water rights within those basins. My proposed amendments are as follows:

Page 2, Section 46.15.140(d): This proposed amendment should be removed from the "abandonment" provision of the Water Use Act (46.15.140), and placed in AS 46.15.145, which deals with the administration of in-stream flow reservations. The proposed subparagraph (d) states,

(d) A state agency may not abandon or forfeit a certificate of appropriation in whole or in part except after public notice.

I understand that this provision was originally intended to deal with in-stream flow reservations granted to the State under AS 46.15.145. If so, it should be moved to that section, as AS 46.15.145(g). I would recommend that the provision be

broadened to cover all in-stream flow appropriators, public and private, since their in-stream flow reservations are required to be made in the general public interest. I recommend that the provision, placed in Section 145, read as follows:

(g) An in stream-flow certificate may not be abandoned or forfeited in whole or in part except after public notice to the certificate holder.

Alternatively, if it is not the intention of SB 150 to confine the abandonment by a state agency of a water certificate to in-stream flow reservations, but instead to include all types of water rights held by the State (as the amendment presently implies), the amendment should remain in its existing Section 140. However, it should be broadened to cover both the state and municipalities. The provision would then read,

(d) A certificate of appropriation may not be abandoned in whole or in part by a state agency or a municipality except after public notice.

This change would prevent the involuntary loss of a water appropriation held in the name of the general public, as a result of the errors or omissions of individual public officials. In other words, failure to timely use a water allocation, or to file some document with the State indicating an intention to maintain a use, should not result in the loss of water rights held by the State or by a municipality in the name of all of its residents.

Based upon these considerations of the public interest, it might be best to leave the provision in Section 140(d), as broadened to cover municipal governments, and at the same time to add the suggested provision concerning in-stream flow reservations at subsection (g) of Section 145.

Page 3, Section 46.15.165(c): This section should be amended by inclusion of the following additional category of persons entitled to receive service of notice of an administrative adjudication of basin-wide water rights.

.5) Serve the order on any other person or corporation claiming a federal reserved water right;

(renumber the existing subparagraph (5) as subparagraph (6)).

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Page 4, AS 46.15.165(c)(5): I recommend that to prevent the inadvertent omission of notice to Native allotment owners in a basin-wide water rights adjudication, or to prevent the later default of these claimants, that the Native regional and village corporations which own land within the basin be notified of any general water rights adjudication (regardless of whether the corporations are themselves asserting a claim to water rights). The proposed amendment would read,

(5) serve the order on each Native regional and village corporation organized under the Alaska Native Claims Settlement Act which owns any land within the adjudication area;

The Native regional and village corporations do not have the burden of keeping a Native allottee informed of the progress of a water rights adjudication. However, they have in many cases been helpful in guaranteeing that Native allottees within their area are not overlooked, and that they receive adequate legal and practical advice to protect their interests in such matters. Therefore, it is desirable that in addition to serving the Native allottee with notice, that the Native corporation within the area also receive notice, to better insure that the allottee's interests will be protected.

Page 6, Section 46.15.166: I suggest that the "judicial adjudications" section at AS 46.15.166 be similarly amended to add a category of persons whose federal reserve right claims may be adjudicated judicially in state court, as follows:

(a)(3) by or on behalf of any person or corporation who claims a federal reserved water right.

These two changes, will permit the adjudication of any federal reserved water right claims which may be asserted by Alaska Native corporations, or by any other entity which is not already included in the proposed legislation (and which, by statutory interpretation, would otherwise be presumed to be excluded). Without this amendment, Alaska Native corporations and others who may claim federal reserve water rights will be forced to bring separate litigation in federal court, which defeats the entire purpose of a basin-wide state-court adjudication of all water rights, including federal reserved rights. The inclusion of this category in the legislation would not be an admission by the State that Native corporations legally possess federal reserved water rights, since the disclaimer in proposed AS 46.15.169 of the bill specifically denies that

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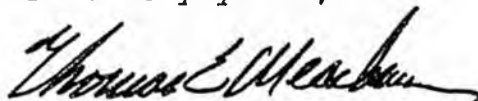
adoption of the legislation is an admission by the State that federal reserved water rights exist within the State.

Page 8, AS 46.15.168(b): I recommend that this provision be amended to require that any administrative adjudication on remand from a court be confirmed judicially, if federal reserved water rights are involved. This will complete the judicial adjudication requirements of the McCarran Amendment, 43 U.S.C. Sec. 666. Without this confirmation, a decision after administrative remand may not be binding upon the federal claimants. Therefore, I recommend that this subsection (b) be amended to read as follows:

(b) The commissioner may accept a remand from a state or federal court of a water rights dispute, and may administratively adjudicate it under AS 46.15.165, subject to judicial confirmation of any federal rights which have been adjudicated.

I hope that my concerns with some details of SB 150 can be eliminated by adoption of the amendments I have listed in this letter. However, with or without these amendments, I believe that SB 150 is a vital piece of procedural legislation which is necessary to allow the State to take full advantage of its jurisdiction over federal water claims. When the need arises, the State will be able to react in a timely manner, without any question concerning the procedures to be applied. I urge that your committee recommend the passage of Senate Bill 150.

Sincerely yours,



Thomas E. Meacham

TEM/lstf

cc: Commissioner Esther C. Wunnicke

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

WATER RESOURCES BOARD

555 Cordova Street
Pouch 7-005
Anchorage, AK 99510
(907) 276-2653

Douc

March 14, 1985

The Honorable Arliss Sturgulewski
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: The Alaska Water Resources Board's Comments on SB 150

Dear Senator Sturgulewski:

Attached are comments regarding SB 150 prepared by the Alaska Water Resources Board during its March 4-8 Board meetings.

I would like to emphasize that this Board supports SB 150 provided the enclosed suggested changes are incorporated in the proposed legislation.

The Board as a unanimous body supports the adoption of a systematic water adjudication process. If the bill, as amended herein, is not adopted in this legislation, the Alaska Water Resources Board will do everything within its power to see that legislation addressing this issue is introduced in the next session.

Thank you for your kind consideration of these recommendations.

Sincerely,

For
Cyril R. Wanamaker, Chairman
Alaska Water Resources Board

L. A. Dutton
By: L. A. Dutton, Chief
Water Management Section

cc: Governor Sheffield
Senate Resources Committee

Alaska Water Resources Board
Recommendations for changes to
SB 150 "An Act making miscellaneous
amendments to the Alaska Water Use Act."

Although the following proposed changes to SB 150 may not be procedurally correct, the Alaska Water Resources Board requests that the Senate Resources Committee review the substantive changes requested in this document.

The State of Alaska is in need of a workable and systematic water adjudication system. This Board therefore supports the basic principles espoused in SB 150. We do, however, have some reservations about the present draft as it relates to notice requirements and water appropriation abandonment. The Board makes the following recommendations:

- I. Delete Section 46.15.140(d) and replace it with Section 46.15.145(g) which would read:

"A state agency may not abandon or forfeit an instream flow certificate in whole or in part except after public notice."

- II. Add a new subsection to AS 46.15.165 to read:

"AS 46.15.165(c)(c) serve The Alaska Native Village and Regional Corporation whose lands fall within the adjudication area."

- III. Add a new sub-section to AS 46.15.166 to read:

"AS 46.15.166(a)(3) by any person or party asserting a federal reserve water right."

Although these are the only recommended changes of the Board, we would like to point out one section of SB 150 that may have the potential to create future problems. This section is AS 46.15.165(d) as it applies to native allottees served under AS 46.15.165(c)(3).

This board recognizes that one of the primary purposes of SB 150 is to create an adjudication system which satisfies the requirements of the McCarren Amendment 43 U.S.C. Sec. 666, thereby providing for state adjudication of federal reserve water rights. Federal agencies have the resources and responsibility to assert and defend their reserved water rights. This state should not be responsible for a federal agency's failure to assert its rights.

The Bureau of Indian Affairs (BIA), as trustee, has the primary responsibility of protecting a native allottee's property interests in a native allotment. It has been suggested, however, that because of any number of reasons, such as the vast number of allotments in the state, other BIA priorities, the failure of the BIA representatives to properly judge the significance of a water adjudication to the allotment holder, inadvertent omissions, etc., federal reserve water rights which may be a legitimate property interest of the allottee may be forfeited due to BIA failure to assert water right as required in this subsection.

If a pattern of forfeitures of federal reserve water rights on native allotments does emerge as a result of this subsection, it is this Board's recommendation that the state's position should be flexible enough to assure that the necessary amendments will be made to protect any legitimate rights of the native allottees.

We wish to make it clear, however, that this Board does not take the position that the state is responsible for asserting a federal reserve water right for a native allottee. Furthermore, we are not suggesting that the state is responsible for affecting any repairs that are necessary to correct an injury created by a federal agency's failure to perform its responsibilities.

The point that we wish to make is that native allottees are state residents. Any federal reserve water rights that they may be entitled to as an appurtenance to their real property, acquired pursuant to the Native Allotment Act, is a valuable and necessary property interest. Forfeiture of real property interests should not be taken lightly. The forfeiture of a legitimate property interest for a failure to respond to service in a timely manner as required by this subsection is a drastic action and should not, therefore, be taken lightly.

Although we are not suggesting any changes to this subsection at this time, we do wish to demonstrate to the Senate Resources Committee that this subsection may have serious consequences to an identifiable group of longtime Alaska residents and not just to the myriad federal agencies which manage numerous and vast federally withdrawn lands.

Meeting Summary
ALASKA WATER RESOURCES BOARD
Juneau, Alaska
March 5-8, 1985

The Alaska Water Resources Board held their spring meeting March 5-8, 1985 in Juneau at Centennial Hall.

Board members in attendance were:

David Vanderbrink, Chairman, Homer
Peg Tileston, Anchorage
Wayne Westberg, Anchorage
Tom Meacham, Anchorage
Alan (Mike) Neimeyer, Anchorage
Stan Rybachek, North Pole
Cyril (Randy) Wanamaker, Juneau

March 5, 1985

David Vanderbrink, Chairman, called the meeting to order.

Esther Wunnicke, Commissioner of the Department of Natural Resources and the Board's Executive Secretary, summarized the status of Resolutions 85-3 through 85-8 which were drafted at the October 1984 Water Board meeting:

° 85-3 Village Safe Water Program: The commissioner is requesting DNR's Water Management Section to draft a Memorandum of Understanding to the Department of Environmental Conservation by April 1, 1985 requiring recipients of grants under the village safe water program to apply for water rights in accordance with AS 46.15.

° 85-4 Water Board's Budget: The resolution requested that the Governor place the Board's budget in the Governor's budget and include \$20,000 for travel and per diem for FY 86. The FY 86 budget request was too far advanced for this change to be considered, but the Governor may want to consider it for FY 87. The DLWM budget for FY 86 includes \$12,500 for Water Resources Board and staff travel.

° 85-5 Dam Safety Program Funding: The DLWM has requested \$134,000 for 20-25 dam safety inspections in the Department's FY'86 budget proposal.

° 85-6 Western States Water Council Representatives: DNR has sent a memo to the governor proposing the designation of DEC and DNR commissioners and the Attorney General as Alaska's official representatives to the Council. The Governor has also been requested to present the welcoming address at the 79th quarterly meeting in Anchorage.

° 85-7 Water Resources Planning and Data: The Water Management Section staff is participating in DNR's land and resource planning efforts, and will be meeting with local planning staffs and zoning commissions. Contractual agreements between DNR and USGS have been reviewed for the collection and dissemination of water use data for 24 communities statewide.

°85-8 Fritz Creek Watershed Proposal: The DLWM's Southcentral Regional Office has rejected the University's application for grazing leases in the Fritz Creek drainage, and will convey the land to the Kenai Peninsula Borough for the purposes of protecting fish and wildlife habitat and future municipal water supplies. Thirty-one appeals have been filed against DLWM's Regional Office's decision requesting habitat and watershed protection. A public hearing is scheduled in April.

Other opening business included scheduling Board member elections for Thursday, March 7.

L. A. Dutton, Chief of the DNR Water Management Section, summarized DNR's recent efforts to address water related issues. The Board expressed concern in the following areas in response to Dutton's presentation:

- 1) The number of residential and non-residential water rights applications received during 1984;
- 2) The role the state is taking towards adjudicating federal reserved water rights;
- 3) The number of valid appropriations which may be affected by federal reserved water rights.

Bruce Landon of the Department of Justice addressed potential conflicts arising from federal reserved water rights, and briefly outlined an approach Alaska may follow for their adjudication. Two major conflicts associated with federal reserved water rights are: 1) uncertainty in evaluating available water resources due to the presence of unquantified federal reserved rights; 2) inconsistency between state law and the purpose of federal reserved water rights. Senate Bill 150 provides the state with a mechanism for adjudicating federal reserved water rights in the state court under the procedures established by the McCarren Amendment. The steps recommended by the Department of Justice for the adjudication of federal reserved water rights are:

- ° Establish a mechanism where the state court can utilize the McCarren Amendment to adjudicate federal reserved water rights,
- ° Clarify the lines of jurisdiction,
- ° Determine and define the primary purpose(s) of the federal withdrawal,
- ° Gather the information necessary to quantify the federal reserved right.

Michael D. White, water law attorney, Denver, Colorado, opened his discussion regarding federal reserved water rights by defining a reserved right as being the amount of water necessary to meet the "minimal needs" of the reservation so that its primary purpose is not "entirely defeated".

White stated that this definition will be used by the courts as the criterion in determining the magnitude of a federal reserved right. He also stressed the value of developing a model based on water resource data and existing appropriations to evaluate the impact of reserved right claims submitted by the federal government. White made the following recommendations for facilitating the adjudication of federal reserved water rights in state court.

- 1) Make sure you have an adequate statutory basis with which to utilize the provisions in the McCarren Amendment.
- 2) Determine both personal and subject jurisdiction; and clearly define all issues.
- 3) Decide on a state litigation strategy.
- 4) Hire individual consultants rather than consulting agencies for technical assistance; and appoint a coordinator to manage all consultants.
- 5) Identify existing reservations, their priority dates, and their boundaries within the affected basin, and their primary purposes.
- 6) Develop a model that incorporates inflow of the system; all the state water rights; existing water use patterns, including depletions to the system, diversions, and return flow; and administrative assumptions.
- 7) Serve personal notices to all individuals who may be affected by the adjudication; and keep private parties involved throughout the litigation.

(Complete transcripts of the presentations on federal reserved rights are available upon request.)

Paula Burgess, Regional Manager of DNR's Southeast Regional Office, briefed the Board on the Indian River basin-wide adjudication.

The original request for basin-wide adjudication was submitted in September of '83, followed by a review of DLWM's procedures and legislation proposed for adjudicating federal reserved water rights by the Attorney General's office. The Assistant Attorney General responded in March of 1984, with these findings:

- 1) The existing procedures for handling federal reserved water rights were inadequate;
- 2) The proposed legislation addressing basin-wide adjudication was sound, and should be introduced at the next legislative session;
- 3) Although existing policies and procedures were inadequate and legislation on basin-wide adjudication had not yet been passed, the DLWM should initiate basin-wide adjudication in state court. The Alaska Declaratory Judgement Act would provide the basis for state court adjudication of federal reserved water rights under the McCarren Amendment.

At the request of the DLWM, the DGGs and the USFWS initiated hydrologic and instream flow studies, respectively, in 1984. The DGGs completed the hydrologic investigation in January, 1985, and the USFWS instream flow study is scheduled for completion Fall, 1985.

All water users and parties to the adjudication will be notified of a public meeting pending the completion of the USFWS instream flow study.

Bill Ross, Commissioner of the Department of Environmental Conservation briefed the Water Board on DEC's role in addressing water quality problems in Anchorage as well as those resulting from placer mining statewide. Ross emphasized DEC's efforts and intentions to work with the municipalities and miners on water quality issues.

Specifically, DEC personnel will be collecting water quality samples in Anchorage and Eagle River, and will work closely with the municipalities in identifying pollution sources and planning for water and sewer needs. DEC is focusing on the water conflicts caused by placer mining, and plans to review EPA's permit effluent guideline process and revise DEC's enforcement policies. These will be presented next month at the Placer Mining Conference.

Jerry Madden of the Fisheries Rehabilitation and Enhancement Division (FRED), DF&G, briefed the Board of the progress and problems encountered in developing fish hatchery sites in Alaska. In response to the low salmon runs that occurred in the early 1970's, the Alaska State Legislature enacted legislation to promote and encourage fishery enhancement. Provisions of this legislation included:

- ° Private non-profit corporations could obtain permits from the State to run hatcheries.
- ° Regional aquaculture associations, private non-profit corporations comprised of representatives of fisheries user groups, were allowed to raise funds for fishery enhancement projects.
- ° Comprehensive planning teams, comprised of members of aquaculture associations and representatives from state agencies, were established to assess fishery needs and to create fishery enhancement plans.
- ° A loan fund was established to assist private non-profit corporations in building hatcheries.
- ° Aquaculture associations were given preference rights to hatchery sites.

Under this program, 22 permits for hatcheries have been issued, 24 applications have been denied, and nine are pending. There are currently 14 hatcheries operating and having return runs.

In developing plans for hatchery sites, one common mistake that has been made by private corporations and state agencies is an inadequate evaluation of the available water resources. This problem has been exacerbated in recent years by the increased economic pressure to produce "money" fish,

such as coho, sockeye and chinook salmon, which require large amounts of water for rearing; and by political pressure to get projects on line as quickly as possible. Conflicts inherent in the state law have also produced difficulties in setting up hatcheries. Three case histories from Southeastern Alaska were discussed to illustrate these points:

- ° Salmon Creek Hatchery, Juneau (Northern Southeast Aquaculture Association) -- This hatchery project had to be abandoned when deals with prior appropriators to utilize some of their water fell through and adequate water supplies could not be obtained.
- ° Armstrong-Keta, Incorporated Hatchery, Port Armstrong (private non-profit group) -- This hatchery project developed in an environment of strong political pressure; thus there was an inadequate assessment of available water resources and the instream flow requirements of the native fish population. The native fish may suffer as a result.
- ° Medvedjie Hatchery, Sitka (Northern Southeast Aquaculture Association) -- A success story. Instream flow requirements were considered early in the planning process; and an extensive hydrologic data collection program was undertaken to define the virgin flow. Negotiated agreements on hatchery requirements vs instream flow needs are being arrived at cooperatively by agencies and the Association.

PUBLIC COMMENT SESSION

David Vanderbrink called the Public Comment Session to order, and invited members of the public to comment on water related issues and on the Board's activities. The following is a summary of the major points presented by the public, and is not a verbatim transcript of the testimonials received.

Ray Renshaw, President, Alaska Miner's Association, Juneau Chapter, requested the Water Board to do everything possible to address and resolve water issues affecting placer mining before the industry is wiped-out.

Del Ackels, placer miner, addressed the Board regarding proposed amendments to 18 AAC 70.020. Generally, Ackels requested review of the "acceptable" dissolved solids standards and "water supply" definitions for consistency between statutes. He also cited inconsistencies between stream classification and management. For instance, Ackels suggested that not all water be arbitrarily implied as drinkable. If water is drinkable, it should be certified and managed as such. Likewise, recreational waters should be identified and managed to accommodate recreational uses. Ackels also requested the Board use its influence to eliminate turbidity as a water quality criteria in EPA's Placer Mining Standards, and suggested that settleable solids criteria be used instead.

Phil Holdsworth, the first Commissioner of the Department of Natural Resources, pointed out that EPA is the agency enforcing water quality standards, and DEC is the agency which establishes those water quality standards. Therefore, if water quality standards are to be changed, it must be done through DEC -- not EPA.

Bob Cacy, placer miner from Circle, stated there are many arsenic and turbidity problems associated with streams in the Interior, and that all streams are set at drinking water standards, implying they are of drinking

water quality. Not only does this jeopardize public safety, but it also precludes any type of industrial use of those streams. Cacy expressed the need to change existing turbidity standards to reflect uses other than drinking water, and to identify streams having drinking water quality.

Rose Rybachek, President of the Livengood-Tolovana Mining District, said that the placer mining industry is in danger of being regulated out of existence. She urged that the State consider a basin management approach, promoting accelerated mining in certain districts and then reclaiming the mined areas and affected streams after the gold resources are extracted.

Christopher Estes, Department of Fish and Game, put in a plug for interagency cooperation on water resource data collection programs. He also stressed the importance of having the Department of Fish and Game actively involved in the Western States Water Council.

March 6, 1985

Chairman Vanderbrink called the meeting to order.

The first scheduled speaker was Bob Martin, Special Assistant to the Commissioner of DEC, who was to give opening remarks. He was unable to attend the meeting, however, due to last minute scheduling conflicts. Instead, L. A. Dutton requested that Gary Prokosch, Water Officer of the Southcentral Regional Office, give the Board an update on Southcentral Region water related operations.

Gary Prokosch briefed the Board on the activities of the Anchorage Waterways Council, a committee composed of Federal, State, local officials, and representatives of private and community organizations. The Council was formed by Mayor Knowles to address the growing water quality problems within the Anchorage Bowl. Mayor Knowles requested the Council to provide recommendations for pollution prevention and mitigation by March 31, 1985. The Council:

- ° Has identified and prioritized the streams within the Anchorage Bowl by current water use patterns and by susceptibility to water quality problems.
- ° Has recommended appropriate water quality sampling strategies.
- ° Is training volunteer "stream walkers" to collect water samples for water quality testing.
- ° Has recommended strengthening Title 21--the Municipal Planning and Zoning ordinances.
- ° Is advocating the designation of a Clean Water Day to promote community awareness and involvement.

Gary promised to keep the Board informed as to the final recommendations of the Council.

Randy Bayliss, Department of Environmental Conservation, discussed DEC's efforts in studying the effects of placer mining on water resources. Mr. Bayliss opened by summarizing the following:

- ° Proposed regulations to address the problem of two drinking water standards;
- ° DEC is currently involved in a turbidity review study; 3) DEC is working towards establishing an enforcement policy on priority streams;
- ° DEC is working on updating the Triagency application; and
- ° DEC will be accepting proposals for the utilization of 205J grant monies for placer mining research projects.

Also discussed were state turbidity standards which were adopted in 1972, and their impact on fish, recreation and industrial development. Bayliss stated the state's standard for placer mining is 25 NTU, which is one of the least stringent standards in the country. Reclassification of the state's waters does not promise much relief from stringent standards and may cost between \$5,000-35,000 to reclassify each stream. However, the state is hoping technological improvements, placer mining demonstration grant programs, and site specific management and planning will help minimize negative impacts of mining on water resources. The EPA's proposed new effluent guidelines for placer mining are scheduled to be released in mid-April for public comment and to be finalized by April, 1986.

Don Finney, Project Manager at the Quartz Hill Project, Ketchikan, for U. S. Borax, and **John Paulsen**, Principle Engineer provided the Board with a brief history of the Quartz Hill Project and an overview of environmental studies done to date. When the mine is in full operation, it will produce 80,000 tons of ore per day and be operated 365 days per year, 24 hours a day. A work force of about 800 people will be required. These will be housed in Ketchikan. The expected lifetime of the mine is about 55 years.

There have been three major logistical hurdles in developing the deposit:

1. Power supply: Currently, the favored power option is an intertie to British Columbia hydropower projects. U. S. Borax and APA are exploring the idea of bringing in power to Quartz Hill, Ketchikan, Petersburg, Wrangell, Juneau, and perhaps Whitehorse.
2. Waste Disposal: The mining operation will produce an open pit approximately 1 1/2 mile long, 1 mile wide, and from several hundred to about 3600 feet deep. Waste rock will be disposed of in two nearby drainages. Settling ponds will be utilized to treat runoff from tailing piles and groundwater pumped from the pit. Ore will be conveyed through a four mile tunnel to a concentrator plant. Mine tailings will be disposed of either in Boca de Quadra Fjord or in Wilson Arm. Studies are ongoing to:
 - ° Determine the volume of tailings
 - ° Determine the impact of tailings disposal on biological resources
 - ° Run computer simulations of tailings behavior
 - ° Complete oceanographic surveys of the proposed disposal sites

Reclamation of the site following closure of the mine will include revegetating the tailings piles and allowing the pit to fill with water forming a lake.

3. Water Supply: The water requirement for the mine when it is in full operation will be 30,000 gpd. Some of this water can be recycled, reducing the demand to 17,000 gpd. Several water supply options are being investigated. Currently the favored options include construction of a water supply reservoir on Tunnel Creek and supplementing this with a well field on Wilson River.

An instream flow study has been conducted by the U.S. Fish and Wildlife service under the auspices of the U.S. Forest Service to determine the impact of the well field (infiltration gallery) on salmon incubation in Wilson River. A report summarizing the results of U.S. Borax's water supply studies will be available in April. The Board requested that copies of the report be provided to them through L. A. Dutton.

Med Farquhar, Special Assistant to the Commissioner of the Department of Natural Resources, spoke for Neil Johannsen on HB 93, the proposed Recreational Rivers Bill. Passage of the Bill will enable special management of rivers having high recreational values by creating a statewide recreational river system. The intent of the Bill is to retain specified rivers and their corridors in public ownership so they can be managed primarily for the protection and maintenance of fish and wildlife habitat and recreational values. Other compatible consumptive resource uses such as timber harvesting, sand and gravel extraction, and provisional access are also allowed under HB 93 -- providing such consumptive uses are compatible with the intent to protect fish and wildlife, water resources, and recreational values.

HB 93 is currently being revised to accommodate objections from the Matanuska-Susitna Borough regarding the inclusion of priority rivers as part of the state park system. In response, Governor Sheffield has agreed to dedicate the rivers under the management authority of the Division of Land and Water Management. Under the proposed special management system, the following policies will apply.

- ° No land disposals or future mineral entry will be allowed within the designated river corridors; (Note: Directional drilling may be permitted from outside the river corridors.)
- ° The state must quantify and apply for minimum instream flow reservations necessary to maintain the management intent of the designated rivers.

The original bill includes specific management proposals identified through the Susitna Area Plan:

- ° Legislative designation of the following rivers to be managed as part of the Recreation River System:

Lake Creek
Little Susitna
Talachulitna
Talkeetna
Moose Creek
Kroto Creek

- ° The proposed legislative designation includes a mile wide corridor along the identified streams which encompasses a total of 220,000 acres of state owned land.
- ° The Matanuska-Susitna Borough has agreed to dedicate Borough owned lands lying within the specified corridors to management similar to that outlined in HB 93.

Liz Baron, Natural Resources Officer, Division of Land and Water Management, presented the Water Management Section's approach to developing a comprehensive water management program which encourages the consideration of water resources in land use planning and decision making processes.

The approach outlined calls for improving inter-agency coordination, and focusing existing water inventories and planning efforts to better assist state and local governments in water resource planning and management decisions.

The proposed comprehensive water management program consists of three parts:

- 1) Data collection - prioritizing and coordinating federal/state water resource inventories to provide state and local governments with information necessary for wise resource management decisions;
- 2) Data integration - organizing and managing collected data in a format which is readily available for analysis and integration into the decision making processes;
- 3) Planning Processes - participating in planning efforts to ensure consideration of water resources in land planning and water management decisions.

Liz summarized how each phase can be implemented through Water Management's participation in existing state, federal, and local government programs. Such an approach directly addresses the Board's Resolution 85-7 which requests the Water Management Section to:

- 1) Develop a program to establish regular contact with planning staffs and planning and zoning commissions of Alaskan cities.
- 2) "Sell" its water data system and structure special studies so that they will be most timely and useful to the local decision makers.

Bill Long and Larry Dearborn, Division of Geological and Geophysical Surveys, gave a joint presentation. Bill started by pointing out that a reoccurring theme in the presentation to the Board during this meeting has been the need for data. He then gave the Board an update on the status of the Aware Plan. He attributes the cost effectiveness of DGGs programs to:

- ° Use of computer modeling,
- ° Use of state-of-the-art data pod technology,
- ° Cost sharing with Federal agencies,
- ° Efficiency and effectiveness of DGGs personnel.

He suggested that the Board should pass a resolution to the Governor emphasizing the importance of water management and data collection and urging that funding for these programs not be cut.

Larry Dearborn then gave the Board an update on the investigation of salt water intrusion at Auke Bay. Cooperative investigations with the U.S.G.S. were started in 1979, and two areas of salt water intrusion were identified. On the basis of these studies, DNR's Southeast Regional Office (SERO) began limiting the number of water rights permits issued in the troubled areas. In 1983, Auke Bay developers challenged SERO's authority to limit permits saying they didn't have sufficient data to support taking that stand. At SERO's request, DGGS started an update of the Auke Bay studies. Their objectives were to:

- ° Add to the data base,
- ° Determine well locations accurately,
- ° Visit key wells and run water quality tests,
- ° Collect water level data from wells throughout the area,
- ° Interpret the data to determine how much saltwater intrusion has taken place, where it's taken place, and where to expect future problems.

On the basis of these studies, DGGS has been able to make recommendations to DNR water managers concerning the potential for salt water intrusion with continued water extraction in the area. These studies are ongoing.

Larry then provided the Board with a summary of one specific study in the area--Indian Cove. The water table in the area has experienced approximately 100 feet of decline since settlement. DGGS has concluded that its bedrock aquifer is highly susceptible to salt water intrusion.

March 7, 1985

WORK SESSION

Resolutions: The Board drafted and passed the following resolutions:

- ° 85-09 - EPA National Placer Mining Standards
- ° 85-10 - Clean Water Act Field Laboratory
- ° 85-11 - Administration of Water Appropriation Permits and Instream Flow Application
- ° 85-12 - Recreational Rivers Bill: HB 93
- ° 85-13 - Water Management Staffing
- ° 85-14 - Dam Safety: SB 95
- ° 85-15 - Alaska Water Resources Board Funding

Letters: The Water Resources Board prepared two letters -- one proposing amendments to SB 150, and one requesting that the Office of the Governor urge the active involvement of the Alaska Departments of Natural Resources, Environmental Conservation, Law, and Fish and Game in the Western States Water Council.

Elections: Dave Vanderbrink's term as Chairman expired, and Randy Wanamaker was unanimously elected as Chairman, and Dave Vanderbrink as Vice Chairman.

Bylaws: The existing bylaws were adopted with an amendment of Paragraph 3 which now stipulates that a reasonable attempt must be made to reach each Board member when a meeting of the Board is to be held by means of telecommunications.

MEETING WITH GOVERNOR SHEFFIELD

Governor Sheffield met with the Board and discussed three issues: 1) Western States Water Council representation; 2) EPA placer mining standards; and 3) stream reclassification. Dave Vanderbrink opened the meeting by stating the importance of Alaska's continued involvement with the Western States Water Council, and requested a permanent representative be appointed to attend meetings. Tom Meacham raised the issue of the inconsistency between the EPA placer mining standards currently being developed and existing state placer mining regulations. The Board expressed the need for all concerned state agencies to review and prepare a unified response to EPA regarding the proposed placer mining regulations. The closing issue discussed was stream reclassification of those streams classified as drinking water quality. Several Board members expressed a concern that natural resource development may be pre-empted due to the minimum quality standards. Sheffield acknowledged the Board's concerns by siting an ongoing study which is evaluating water quality standards; and sited water availability with regard to land disposals and community expansion as a water management issue also needing attention.

March 8, 1985

SENATE RESOURCES COMMITTEE MEETING

Arliss Sturgulewski, Chairwoman of the Senate Resources Committee, called the meeting to order. **Esther Wunnicke**, Commissioner of the Department of Natural Resources, introduced **Randy Wanamaker**, Chairman of the Alaska Water Resources Board, who presented a brief summary of the issues addressed at the March Water Board Meeting. Arliss Sturgulewski requested copies of the resolutions drafted by the Water Resources Board; and asked the Board to respond to SB 95. Wanamaker indicated that DNR will propose regulations intended to minimize the potential impacts of SB 95 on mining operations. **Bettye Fahrenkamp**, Vice Chairwoman of the Senate Resources Committee, expressed concern over state vs federal jurisdiction over dam safety regulations; and if DNR could handle the work load of dam safety inspection under current budget cuts. **Peg Tileston**, Water Resources Board member, explained SB 95 provides legislature authorization of the existing dam safety program which is presently funded. **Larry Dutton**, Section Chief, Water Management Section, DNR, emphasized the cost savings incurred by DNR prioritizing and conducting dam safety inspections as compared to average inspection costs of dams nationwide. (DNR spends approximately \$7,000, on the average, for each dam inspection vs \$10,000/dam average inspection costs for other states.)

Randy Wanamaker and **Stan Rybachek**, Water Resources Board member, briefly addressed water policy and the effects on placer mining. Mr. Wanamaker suggested stream reclassification may help resolve mining and water quality conflicts by establishing water quality standards which accommodates acceptable levels of mining activity. Mr. Rybachek referenced the upcoming Seventh Annual Conference on Alaskan Placer Mining to be held March 27-30, 1985, in Fairbanks which may address revision of the state's water quality

standards. Peg Tileston testified to the Resources Committee that EPA is "rule making" for national placer mining standards which will affect Alaska more than any other state. Ms. Tileston cited a recent Water Board Resolution which calls for a unified, multi-agency response to EPA proposed standards. Senator Sturgulewski stated her staff will submit a resolution to the Resources Committee regarding EPA proposed standards. Ms. Tileston indicated the regulations are scheduled to be available for review mid April, and public comment will be solicited April 25th. Senator Coghill suggested there be a public hearing prior to April 25th.

Senator Sturgulewski requested comment from the Water Resources Board regarding the proposed Recreational Rivers Bill. Dave Vanderbrink, Water Board Vice Chairman, stated the clause addressing control of firearms and public safety is vague and may be subject to abuse; but Resolution 85-12 adopted by the Water Resources Board supports HB 93 which establishes a system of state recreational rivers. Mr. Vanderbrink also testified in support of Alaska's membership and participation in the Western States Water Council. Esther Wunnicke announced that Alaska is hosting the next Western States Water Council in Anchorage, July 18-19; and requested members of the Committee to participate.

Note: For purposes of clarity, the summary discussion below regarding SB 150 amendments to the Alaska Water Use Act (AS 46.15) is organized by issue.

SB 150

Issue 1 - Cost of Implementation:

Sen. Sturgulewski: Although there's a zero fiscal note associated with SB 150, its adoption will require funding for data collection and enforcement. Do we want this?

Ned Farquhar, Special Assistant to the Commissioner of the Department of Natural Resources: SB 150 is a mechanism which would not be used much; and when adjudication is necessary, a cost savings from litigation in a state court vs federal will be realized.

Issue 2 - Authority of Determining Water Rights Abandonment - Sec. 3:

Sen. Fahrenkamp: Sec. 3 may grant DNR's Commissioner too much authority in determining abandonment of water rights.

Ned Farquhar: This authority enables reduction of water appropriations when necessary, at the administrative level.

Issue 3 - Revocation of Water Permits

Sen. Fahrenkamp: Need to assure water right holders have time to use (develop) water rights. Need to modify the bill so it can not revoke an individual's water rights as a result of project or permitting delay.

Dutton: The 4th line reads, ". . . with the intention to abandon." This means, if the individual intends to use the water, but economic or permitting circumstances have precluded its use, the water right will not be revoked. But, if the appropriator is not using water, DNR must have a mechanism to revoke.

Farquhar: DNR will work with Fahrenkamp's staff to insure that delays occurring which are out of the appropriator's control will not result in a loss of appropriation.

Issue 4 - DNR's Authority to Remove Unsafe/Unpermitted Works of Appropriation, Section (b)

Sen. Sturgulewski: Sec. (b) provides DNR with enforcement responsibility. Why was such a broad approach taken re: DNR's authority; does DNR need this much? We need clarification.

Dutton: DNR needs authority to remove unsafe and unpermitted structures to ensure public safety. "We will research."

Issue 5 - Intent of Providing Water Rights - Section 1

Sen. Fahrenkamp: Is Section 1 of SB 150 necessary if the state cannot guarantee water quality or quantity in its appropriation process?

Ned Farquhar: The state isn't knowingly over appropriating water rights in areas of proven water shortage. The state is obligated to issue rights, but ...

Sen. Halford: What protection does the user have if state over appropriates his water source?

Dutton: Issuance of water rights grants the appropriator the right to defend his water right from junior appropriators based on a priority date. The state cannot guarantee the quantity or quality of water due to insufficient data.

Issue 6 - Alaska Water Resources Board Proposed SB 150 Amendments

Mike Neimeyer, Water Resources Board member, testified to the Committee regarding proposed amendments to SB 150. Generally, the Water Board supports the intent of SB 150, but has drafted specific amendments addressing notice requirements and water appropriation abandonment. (Please refer to the enclosed memo written to Arliss Sturgulewski, March 1985, for specific amendments.)

Issue 7 - Placer Mining: Proposed SB 150 Amendments

Rose Rybachek, President of the Livengood-Tolovana Mining District, briefly presented amendments to Sections 2 and 5; and indicated the need for procedure for the court to validate adjudications under Article 8. Details of the proposed amendments will be worked on by Senator Sturgulewski's staff and Ms. Rybachek.

The Senate Resources Committee meeting closed with testimony from **Phil Holdsworth** and **Stan Rybachek** clarifying SB 150 regarding the following points: 1) Section 1 addresses subsurface water, not open flow water; 2) SB 150 calls for establishing a mechanism whereby federal reserved water rights may be adjudicated in state court; and does not deal with resolving non-federal appropriation conflicts between senior and junior appropriators.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT

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December 20, 1985

The Honorable Arliss Sturgulewski
Alaska State Senate
2957 Sheldon Jackson Street
Anchorage, AK 99508

Re: CSSB 95, Dam Safety

Dear Senator Sturgulewski:

Recently we had the opportunity to discuss CSSB 95 and SB 150 with Senator Halford. Below we have addressed his concerns with the Resource Committee Substitute for SB 95. Due to our desire to completely respond to Senator Halford's concerns with SB 150, we will be sending you a similar letter on SB 150 in the near future when we have all the necessary information.

We propose the following changes in CSSB 95:

Section 46.17.040 - Delete the subsection (b) in its entirety and renumber (c) to (b) and (d) to (c). The concern which prompted subsection (b) will be covered in the revised definition of a "dam," Section 46.17.900(3).

Section 46.17.050 - Delete the second sentence in its entirety and substitute "The commissioner may inspect a dam or reservoir more frequently than every five years to protect public safety."

Section 46.17.060 - Delete the first sentence in its entirety and substitute:

In taking an action under this chapter, the commissioner, after giving two weeks written notice and being refused the right of entry, may seek a search warrant to allow inspection of the dam or reservoir. The commissioner, after being refused inspection of drawings, operational records, or other information concerning a dam or reservoir may seek an administrative subpoena compelling production of the drawings, operational records or other information.

Leave the last sentence unchanged.

Arliss Sturgulewski
December 20, 1985
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Section 46.17.120 - Senator Halford expressed concern that while this section appeared to provide ample protection for the state, it doesn't leave much recourse for a dam owner to seek remedy in the courts in the event a negligent action or inaction on the part of the state causes the dam owner to suffer unnecessary or unreasonable damages.

In researching Senator Halford's concern regarding the state being held liable for some of its actions in dam safety work, we contacted James Doodly, Chief, Division of the Safety of Dams, State of California. The language in this section was essentially taken from the United States Committee on Large Dams Model State Dam Safety Law, which was taken from the California Dam Safety Law. Mr. Doodly stated that by virtue of the type of work dam safety is, such language and sovereign immunity is necessary to avoid inviting legal actions against the state. Further, such language is required to protect dam safety employees from personal liability.

One must recognize that the state is acting in the interest of the public placed at risk below a dam. The public may not be deriving any benefit from the dam, and on the contrary, a hazard exists by virtue of their being placed at risk. The only reason the state would ever take control of a dam or order the owner to breach a dam would be that an imminent danger existed to the public. The imminent danger would be the fault of the owner, either through action or inaction. Suggesting that the burden be shifted to the state in the case of imminent danger relieves the owner of his due responsibility and will cause any agency or state employee to be reluctant to take drastic action for the greater public good. One cannot reasonably expect the state be treated as an individual under law when it is acting in its best judgment to protect the public from a hazard (the presence of a dam) created by a dam owner for the owner's benefit.

We share Senator Halford's concern with this section, and if the section can be worded in some way that provides essential protection to the state and its employees and at the same time provides reasonable protection for dam owners from negligent state actions, the bill would be greatly improved. Possibly you will want to have the Department of Law or Legislature's attorneys review this section to see if other wording is practical.

Section 46.17.120 should remain unchanged, unless acceptable alternative wording can be developed.

Arliss Sturgulewski
December 20, 1985
Page 3

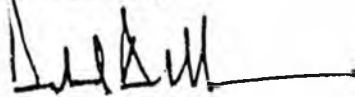
Section 46.17.900(3) - Delete the sentence in its entirety and substitute:

dam means any artificial barrier and appurtenant works which may impound or divert water and (A) that has or will have an impounding capacity at maximum water storage elevation of 50 acre-feet and is at least 10 feet in height measured from the lowest point at either toe of the dam to the crest of the dam or (B) that is at least 20 feet in height measured from the lowest point at either toe of the dam to the crest of the dam or (C) that the commissioner has made a positive determination that the dam poses a threat to lives and property.

Senator Halford's comments were very useful, and with the exception of Section 46.17.120 we have incorporated them in the new language we have suggested. Due to the critical need for this legislation, we urge your continued support of this important public safety measure.

Comments on SB 150 will be forwarded to you when our information is complete.

Sincerely,



hw Tom Hawkins
Director

cc: Senator Faiks
Senator Sackett
Senator Rodey
Senator Halford
Commissioner Wunnicke

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

March 19, 1985

Honorable Richard Shultz, Co-Chair
House Resources Committee
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Re: SB 150, Thomas E. Meacham's March 12, 1985 letter

Dear Representative Shultz:

The Department of Natural Resources fully endorses all of the suggestions in the subject letter without exception.

Referring to Section 3 of SB 150 and the proposed amendment to AS 46.15.140(d) on Pg. 2, Mr. Meacham offered alternative wording (see Pg. 3 of his letter). This particular subsection was discussed at some length at the recent Water Resources Board meeting. It was felt that the original intent of this section was to prevent state agencies from abandoning instream-flow reservations and thus the Board recommended that the subsection, in its present form, should be deleted from Section 46.15.140(d) and to be reinserted as Section 46.15.145(g). We now realize that, while our original intent with this subsection was to protect the public interest in instream flow reservations, many other forms of agency and municipal appropriations, e.g., public water supply, provide a direct public benefit. Therefore, we now agree that Mr. Meacham's alternative proposal to leave the subsection in 46.15.140(d) and covering municipal governments through use of the wording or similar wording to that in Mr. Meacham's suggestion is the better way to deal with this section and will best serve the public interest.

We believe the other amendments to the bill proposed by Mr. Meacham in his letter are excellent and their incorporation will greatly improve this proposed legislation.

Sincerely,



Esther C. Wunnicke
Commissioner

cc: Tom Meacham
Tom Hawkins
Mike Frank
L. A. Dutton
Water Resources Board

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

JAN 13 1986

January 9, 1986

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

Re: SB 150, Basin Wide Adjudication of Water Rights

Dear Senator Sturgulewski:

Recently we had the opportunity to discuss Senate Bill 150 with Senator Halford and state and federal agency representatives that participate in the Federal Reserved Water Rights Work Group chaired by DNR. Based on these discussions, we are proposing the following amendments to SB 150 to address concerns of Senator Halford and the resource management agencies:

Section 46.15.140

Amendment: Subsection (a) of proposed AS 46.15.140 should be rewritten as follows: "The commissioner may declare an appropriation to be wholly or partially abandoned and revoke or amend the certificate of appropriation as to the unused quantity of water if an appropriator, with intention to abandon, does not make beneficial use of all or a part of the appropriated water."

Rationale: This change makes it clearer that, if necessary, part of an appropriation may be revoked for non-use, and the certificate amended to allow continued use of the quantity of water that is still being used.

Proposed by: Senator Rick Halford