ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 8672

4238 SRES SB 135 - SB 150

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In addition, Mr. Pat Kalen, 479-2628; Mr. Robert Kean, 349-6431; and Mr. Warren Latvala, 278-1571; members of the Joint Legislative Committee, may be contacted for additional information.

Very Truly yours,

Alaska Section,
American Congress on Surveying and Mapping

C.A. Herschbach
Chairman

CAH/dlh
cc: Senator Arliss Sturgulewski
Enclosures

A BILL

For an Act entitled: "An Act relating to land surveys."

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

Section 1. AS 34 is amended by adding a new chapter to read:

CHAPTER 65. LAND SURVEYS

Sec. 34.65.010. PURPOSE.

The purpose of this chapter is to authorize right of entry on land for survey purposes, and to provide a method for preserving evidence of land surveys by filing records of survey and monument records. The provisions of this chapter shall supplement laws relating to land survey platting and subdivision surveys.

Sec. 34.65.020. ENTRY UPON LAND BY PROFESSIONAL LAND SURVEYORS

(a) A professional land surveyor registered under AS 08.48 or an employee under the supervision of a professional land surveyor may enter public or private land, water, or premises in the state only to occupy, locate, relocate, install, or replace survey monuments, to locate boundaries, determine geodetic positions, and to make surveys and maps, and is liable to the landowner for actual damages only.

(b) The attorney general may bring an action in the name of the state to restrain and prevent the obstruction of entry under (a) of this section.

Sec. 34.65.030. RECORDS OF SURVEY.

(a) After making a survey in conformity with the practice and definition of land surveying, the land surveyor shall file with the district recorder a record of such survey within 90 days if such survey discloses:

(1) Material evidence or physical change, which in whole or in part does not appear on any plat of record previously filed in the office of the district recorder, or in the records of the Bureau of Land Management, or;

(2) A material discrepancy with any plat of record previously filed in the office of the district recorder, or in the records of the Bureau of Land Management, or;

(3) Evidence which, by reasonable analysis, might result in alternate positions of boundaries from those of record.

(b) A land surveyor who in the course of a survey establishes, reestablishes, uses as control, or restores a monument to make it readily identifiable or reasonably durable shall file a monument record, unless the monument and its accessories are substantially as described in a monument record filed under this chapter, or on a survey plat of record.

(c) Persons, firms or agencies whose activities will disturb or

(d) A land surveyor may file a monument record for any monument.

(e) A land surveyor who is required to file a monument record under this section shall do so within 90 days.

(f) A monument record shall be signed, and sealed by the land surveyor responsible for the survey.

Sec. 34.65.040. WHEN RECORD OF SURVEY IS NOT REQUIRED.

A record of survey is not required for any survey:

(a) Made by the Bureau of Land Management.

(b) When a plat of the survey has been filed or will be filed within 18 months of the field survey.

Sec. 34.65.050. DUTIES OF THE COMMISSIONER.

The commissioner shall adopt regulations to implement this chapter, providing a standard form for such record of survey.

Sec. 34.65.060 DUTIES OF THE DISTRICT RECORDER.

(a) The district recorder shall provide a copy of a monument record filed under AS 34.65.030 and a copy of a record of survey filed under Sec. 34.65.030 to the municipal or borough clerk for the area of the state in which the monument or survey is located.

(b) The district recorder shall keep proper indexes of such monument record and record of survey by the survey name, tract designation, subdivision designation, or United States public land designation.

Sec. 34.65.070. DEFINITIONS. In this chapter,

(a) "accessory" means physical evidence adjacent to monuments to which such monuments are referred for their future identification and restoration;

(b) "commissioner" means the commissioner of natural resources;

(c) "land surveyor" means a professional land surveyor licensed under AS 08.48;

(d) "monument" means:

1. a United States public land survey monument;

2. an Alaska state land survey primary monument;

3. exterior primary monuments controlling a recorded survey;

(e) United States public land survey monument means:

1. a survey monument established in a cadastral survey by the Bureau of Land Management or its predecessor;

2. and includes monuments in a United States special survey and United States mineral survey which are a

JUSTIFICATION
AMENDMENTS TO AS 34 (ADDITION OF CHAPTER 65)

Section Authorizing Entry On Land For Survey Purposes

Thousands of survey monuments exist in the State of Alaska identifying section corners, township corners, various property boundaries and serving as geodetic control points in remote areas where no other survey control presently exists. Taxpayers' dollars were utilized to establish these monuments, as they were intended for purposes benefiting the public. Various Federal agencies, primarily the Bureau of Land Management, Coast and Geodetic Survey, Geological Survey, Corps of Engineers and Army Mapping Service and, more recently, various State of Alaska agencies established these monuments. Utilization of this existing monumentation is mandatory if the surveyors, mappers and photogrammatrists in the State are to conduct the surveys required by the public property boundaries, subdivisions, construction projects and eral, oil and gas exploration programs. Traditionally, acc to this survey control has been available to these profess s as required to conduct these surveys. Access is primarily by foot, air or water and utilization of the station usually involves only the temporary setting up of a theodolite, distance measuring equipment, satellite survey system, photo control panel or in some cases, leaving a small, unmanned, battery-powered transmitter on a small tower or tripod to continuously broadcast signals for offshore or airborne positioning systems. No damage to the monument or its surrounding environment is entailed.

In addition, in the course of conducting surveys, surveyors must often physically traverse adjoining property boundaries or gain access to hilltops, mountain peaks or shorelines so as to gain line of sight or for other technical reasons. Again, the occupancy is limited in nature and normally involves no damage to the environment.

With increasing transfer of lands from the public domain into private ownership, access to these survey control monuments, property boundaries and key terrain features is becoming increasingly curtailed. Owners, applicants and alleged owners of the underlying property on which the monument is located or to which access must be gained, even in extremely remote areas of the State, are now requiring advance permission and often the payment of considerable rental fees to briefly occupy the station or terrain feature. In some cases, there is outright refusal of access if the owners are not in agreement with the program for which a survey is being undertaken, regardless of the fact that the resultant program may be on State, Federal

or third party ownership. To further complicate the matter, often two or more persons or groups claim ownership to the same lands, leaving the surveyor in the position of not knowing from whom to obtain permission or alternatively, obtaining permission from the apparent owner only to be challenged by a second party claiming ownership. As survey monumentation in the remote areas of the State is extremely sparse, this allows the owner or alleged owner of the lands underlying a primary control monument to control developments over a vast area far outside their ownership. In some cases, a single monument may serve as primary control for thousands of square miles so use of alternate monuments is not feasible or even impossible.

This problem, nonexistent prior to five years or so ago, is annually becoming more critical. As much as surveyors, mappers and photogrammatrists wish to see the property rights of all individuals or groups to be properly protected, the time has come for some protection for all of the citizens of the State to utilize the survey monumentation which was established with their tax dollars, and to allow surveyors to determine citizen's property boundaries. Similar legislation has been found necessary in nearly all the other states of the union.

The Alaska Section, American Congress on Surveying and Mapping and the Alaska Society of Professional Land Surveyors and their members feel the time has now arrived that this legislation is mandatory if the rights of all individual citizens of this State are to be protected.

Section Requiring Record Of Survey And Monument Record

A present requirement exists in Alaska that subdivisional plats be recorded with the district recorder so as to be available for use by all citizens of interest. Hundreds of other land surveys are annually conducted, however, defining boundaries and rights-of-way, for which no such recording requirement exists and which presently do not become a part of any public record. Although some informal exchange of information currently takes place between the professional surveyors in the State, there is no official depositary for records of this sort where a public or private surveyor can research records of previous surveys prior to undertaking a survey in the same area. This often results in repeated duplication of effort, boundary conflicts (between two surveyors utilizing totally different techniques to approach the same problem) and, at the very least, incursion of unnecessary costs by the surveyor's client if a private survey.

or the public at large if the survey is for public purposes. Similarly, as surveys are undertaken and key monumentation recovered, no current regulation or law requires the surveyor record any public document indicating the existence, lack of existence, condition of, or current status of key control monumentation in the project area. This is especially critical where monumentation will or likely will be destroyed during forthcoming construction following the initial survey. Replacement of these destroyed monuments is extremely costly unless adequate records exist prior to any disturbance, indicating the exact original position of the monument with ties to appropriate accessories.

These professional associations and their members believe it is the duty of all professional surveyors to file a record of survey and monument records for all appropriate surveys they undertake and that an appropriate procedure be established by the State to provide the mechanism for the recording of these documents.

The burden and cost of this recordation will primarily fall upon the surveyor and not the government entity. The sole cost to the State of Alaska or its subentities will be the cost of accepting and maintaining these records. It is estimated the total number of documents would not exceed 1000 per year. This very minor cost would be greatly offset by the value to State agencies, boroughs and municipalities that could make great use of the vast amount of information so recorded and made readily available with no cost of field acquisition whatsoever. Likewise, when individual citizens of the State require survey in the future, they will often achieve a cost saving because of the ready availability of these documents.

The majority of other states currently have statutes requiring recordation of monument and/or survey records. This is especially true in the western states where fewer surveys exist, with the resultant greater distance between monuments and longer time intervals between occasions when monuments may be inspected by professional surveyors.

A BILL

For an Act entitled: "An Act relating to land surveys."

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

11. AS 38.04.045(b) is amended to read:

(b) Before the conveyance of surface rights to state land, an official cadastral survey shall be accomplished, unless a comparable, acceptable survey exists that has been conducted by the federal Bureau of Land Management. The rectangular survey section corner positions shall be monumented and shown on a cadastral survey plat approved by the state. [HOWEVER, FOR THOSE AREAS WHERE THE STATE MAY WISH TO CONVEY SURFACE ESTATE OUTSIDE OF AN OFFICIAL CADASTRAL SURVEY GRID, THE DIRECTOR MAY WAIVE MONUMENTATION OF ALL INDIVIDUAL SECTION CORNER POSITIONS AND SUBSTITUTE AN OFFICIAL CONTROL SURVEY WITH CONTROL POINTS BEING MONUMENTED AND SHOWN ON CONTROL SURVEY PLATS APPROVED BY THE STATE. NO PORTION OF LAND TO BE CONVEYED MAY BE LOCATED MORE THAN TWO MILES FROM SUCH A SURVEY CONTROL MONUMENT EXCEPT THAT THE COMMISSIONER MAY WAIVE THIS REQUIREMENT ON A DETERMINATION THAT TOPOGRAPHIC FEATURES, DIFFUSE SETTLEMENT, OR THE PUBLIC INTEREST DO NOT JUSTIFY THE REQUIREMENT.] The lots and tracts in state subdivisions shall be monumented and the cadastral survey and plats for the subdivision shall be approved by the state. Where land is located within a municipality with planning, platting,

JUSTIFICATION
AMENDMENTS TO AS 38

Sections AS 38.04.045(b) and AS 38.09.010(b) Requiring Cadastral Surveys and Aliquot Part Description

During the rewrite of the Title 38 legislation last year, the provisions allowing waiver of cadastral surveys and control surveys were considerably expanded over the belated opposition of the surveyors, mappers, and photogrammetrists in the State. These professionals' concerns appear to have been amply justified as the Division of Land and Water Management has subsequently distributed a draft of their implementing policy (attached). It, for all practical purposes, will allow nearly all disposals in the future to occur without prior survey whatsoever, ignoring the fact that history reveals settlement prior to survey creates many problems paramount to chaos. They are forgetting land boundaries must be monumented and identified on the ground in order for their own land managers to know what they are managing, that section line access right-of-ways are legally and practically useless without surveys, that a nightmare of cost, access, and boundary problems are being dumped on citizens who receive parcels, and that title to thousands of acres of residual State land becomes tainted and of no value for years. In the name of expediency and false economy they are abandoning a proven land identification system in favor of a system that is destined to bring chaos into the management of Alaska lands and disillusionment to the citizens who will obtain lands under the future disposal programs.

The State of Alaska is failing to observe and benefit from the experience of the United States Government and our sister states in this matter. Early in the history of our Federal Government it was recognized that a system must be adopted to not only transfer public lands into private hands, but to allow the recipient to physically identify his boundaries, assure access, protect him to the maximum extent from conflicts with neighboring properties, and provide a method of description to assure ease of conveyance, financing or other procedures. The resultant system was the rectangular land survey system which allowed any parcel to be readily identified, plotted accurately on status maps even without survey, eliminated the excess or deficiency in acreage problem, virtually eliminated boundary disputes and provided a single set of survey procedures for establishment. Federal law prescribes that all public domain lands will be physically surveyed and monumented in conformance with the rectangular survey system prior to disposal, acknowledging the fact that this was a governmental responsibility that should not be forfeited or passed to private entities. This system has been followed in all public domain states except Alaska.

The rectangular survey system has historical precedent of 200 years in the United States, is understood by surveyors, title companies, lending institutions, recording offices, attorneys, and most citizens, is utilized as the backbone of all land record systems and has procedural manuals already adopted and in place. It, however, is gradually being discarded in Alaska. In its place basically a metes and bounds system is being adopted, the least desirable of all possible land identification systems. This system is outlawed in most boroughs as a means of subdividing property, as they see first hand the problems it manifests. It creates a patchwork of oddly-shaped and irregularly-adjoined parcels to which access and intelligent utility distribution is next to impossible. It creates slivers of unclaimed State land that become of zero value to the citizenship of the State as a whole. It is expensive and difficult to survey accurately, creates voluminous land records, makes it impossible to plot parcels accurately on a status map without field survey and encumbers all residual land within a township (36 square miles or 23,040 acres) until all applicants' parcels are surveyed. It is the worst of all possible methods and should only in specific, exceptional cases be allowed to be utilized in the disposal of State lands.

The planners and land managers in the Division of Lands and Waters Management may feel comfortable in having small-scale, inaccurate, topographic maps in their hands to manage the lands in their jurisdiction. The individual or entity obtaining the lands, however, has little need or use for a map that only marginally represents his property's characteristics and provides no benefits in assisting him in identifying his specific parcel or legally describing its boundaries. It is at this point he suddenly finds the "cheap" land he obtained from the State to be a tremendously expensive parcel when the cost of an adequate survey and preparation of legal description is contemplated. The fact that he will usually seek and contract for this survey as an individual, instead of becoming the beneficiary of a vast survey of many thousands of acres as would be done in a State-performed survey, gives him no benefit whatsoever of economies of scale. He finds difficulty obtaining financing for improvements, runs into title problems with title companies, boundary conflicts with his neighbors, and often finds he has no legal or practical access. He becomes disillusioned, and, instead of the State having a citizen that is pleased with the State's stewardship of its natural resources, he instead feels he has been misled and tricked by his government.

In addition to the land recipient's problems, the surrounding public domain for years remains in a "no man's land," unable to be properly and accurately platted on a status map, and, as a result, preventing it from being utilized in any useful manner by private citizens or governmental agencies.

The State must face its responsibilities to its citizens. It must amend AS 38 to again require minimal cadastral surveys be performed prior to disposal and the aliquot part method be utilized to the maximum extent to convey ownership, especially to the larger homestead parcels. Our lands with their resources are of such value that the need for efficient land management far outweighs the cost of survey.

DRAFT POLICY
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LAND AND WATER MANAGEMENT

Regional Offices may recommend the Commissioner waive cadastral survey requirements of homestead entry lands under AS 38.09.010(b) upon making one or more of the following findings:

Topographic Features:

The presence of features such as swamps or steep hills escalate the cadastral survey costs above the benefits to be obtained from such survey.

Diffuse Settlement:

The settlement pattern resulting from the State's proposed disposal program will result in private ownership of less than 30 percent of the land within the minimum rectangle encompassing the land to be disposed.

Public Interest:

1. The cost associated with a cadastral survey is greater than the direct benefit in increased land values that would accrue to the public from such a survey and the public benefit to be derived from the disposal is greater than the cadastral survey cost.

2. The time to complete a cadastral survey will significantly impact the State disposal program and the benefit from such survey does not equal or exceed the benefit from accomplishing the State's public interest land disposal goals.

SURVEYING OF ALASKA PUBLIC LANDS
GENERAL COMMENTS

As evidenced by the proposed legislation, the professional surveyors, mappers, and photogrammetrists in the State of Alaska perceive there to be deficiencies or ommissions in existing legislation which have given rise to situations that are becoming quite serious in some areas. The professional societies and their members are likely responsible for a share of the problem, having been rather mute and nonparticipatory in screening legislation or requesting legislative actions in the past. The current situation, however, has become alarming enough to encourage the professional societies and their members to become more active in monitoring State procedures and requesting appropriate legislation to correct perceived ills. The State Professional Registration Act requires registered surveyors to serve and protect the public interest. Failure to come forward to the Legislature at this time to voice their concerns would be a neglect of this responsibility.

Present deficiencies in State survey procedures probably stem from the fact that the State of Alaska, in its rush to secure its lands from the Federal Government, with vast acreages to manage and little demand for transfer of ownership, at the start failed to put in place a survey authority to establish appropriate procedures. In its haste, no central survey authority was ever established. It was probably assumed the Department of Natural Resources would assume the appropriate role. The Division of Technical Services, a division of the Department of Natural Resources, was established. It, however, was established as a record keeping and maintenance organization and not as a survey authority. Only when the demands for disposal of lands to private citizens had begun in the late 1970's did the Department of Technical Services take on the role of overseeing cadastral and disposal surveys within the State. This it primarily seems to have done by default as no other entity existed.

Unfortunately, as a result of legislation passed for political reasons or as a result of input from non-technical branches of the State government, the majority of its policies and procedures were developed to expedite the disposal of lands in maximum haste and at minimum cost, with little regard for the long range effect. Additionally, only a certain amount of State surveys come under the Division of Technical Services. The Department of Transportation and Public Facilities, Division of Parks, Division of Forestry, and other State agencies continued to also do land or boundary surveys, each to a different set of specifications and some in direct conflict with accepted professional practices and procedures. As the State's revenues have leveled off in very recent years with the resultant push to reduce costs, even the minimal surveys conducted under the supervision of the professionals in the Division of Technical Services have been circumvented and deleted to the point that utter chaos is in store for Alaska lands if some reversal in policies does not take place in the immediate future.

The majority of U.S. public domain states, provinces of Canada, and states of Australia established a central survey authority to oversee the surveying of lands obtained from their federal governments. A Surveyor General or individual with similar title normally was appointed by statutory requirement to oversee these activities.

The State of Alaska erred in a number of ways. First, it agreed to accept lands from the U.S. Federal Government under the Statehood Act that were not surveyed in conformance with the previous federal law or in conformance with practices that had been observed in all previous states, except the original thirteen. It accepted lands that were either not physically surveyed at all or only marginally surveyed at 2 mile intervals on the township boundaries. Then, instead of immediately recognizing the survey deficiency of the lands as conveyed from the Federal Government, creating a survey authority and proceeding with the task of surveying the lands in an orderly manner and under a single set of guidelines, it ignored the survey problem until the public outcry for lands disposal in the '70's. It has since patched and repatched together a makeshift set of statutes to meet immediate needs that have only served to greatly compound the longer term problem.

The solution is obvious. Although extremely late in being established, a central survey authority should be established in the State of Alaska having jurisdiction over the survey of all State lands whether by themselves, by contract surveyors, or by other State entities. A set of survey procedures and specifications similar to the Federal "Manual of Surveying Instructions" should be adopted and adhered to by all entities surveying State lands. When questions arise, as they inevitably will, as to the applicability, cost effectiveness and suitabilities of performing surveys in specific instances on specific lands, professionals in this central survey authority, after input from other State entities, would make the final recommendations. This is in reverse of the procedure as it now exists where many survey decisions or recommendations are being made by individuals in various State divisions or departments who are totally unqualified and incapable of making meaningful decisions in this regard. The adoption of such a central surveying authority, although perhaps slowing lands disposals on the short term and requiring the expenditure of additional State dollars for more adequate surveys, would pay off many times over in dollars saved in the future and prevent the otherwise inevitable public disillusionment with the State's land management policies.

We urge that careful consideration be given to the passing of a carefully drafted and thought out statute that would create such a central state survey authority to get management of our lands on track and prevent the disaster that is gradually encompassing this most valuable asset of the citizens of the State.

3 prof group

· Bud Herschtank (w) 278-1571

10/27/84 — call + a dinner
state of R. D. council.
will set up speaking
engagement & meet w/
Leg committee
ideas

(1) Monument — availability.
setup w/ Fed. 86. Now
Native Corps — changing
related to uses. Says
most states have law
allows use but indemnifies
of damage.

(2) issue Cadastral
surveying. See if
notes avail from last
year.

Betty had promised to help
+ has been working w/ them

RANDUM
Tom Hawkins, DEPARTMENT OF NATURAL RESOURCES

State of Alaska
Southeast Regional Office

TO: Tom Hawkins, Director
Division of Land & Water Management

DATE: January 2, 1985

FILE NO:

TELEPHONE NO: 465-3400

FROM: Paula Burgess, Regional Manager
Southeast Regional Office

SUBJECT: Homesteading in Southeast Alaska

Homesteading is one of the most popular means of getting land into private hands. The image conjured up by the term "homestead" is that of a vast and beautiful tract of ones favorite landscape, title to which is gained not by payment but by successfully making ones home on the land.

The homestead program is expensive for the state, even under favorable conditions. In large state selections with fairly uniform terrain and sufficient monumentation, homesteads can be defined by aliquot part legal descriptions. Even under these conditions, however, the state must provide careful instructions to the applicant, must resolve the inevitable staking errors, and must manage the haphazard land remnants.

In Southeast Alaska, land available for private ownership is in great demand. The selections in Southeast cover extremely rugged terrain, and the number of buildable sites within a selection is small. Because the resource is extremely limited, land is generally sold in lots smaller than five acres.

Because of the rugged terrain, the small number of buildable sites, and the demand for land in Southeast Alaska, land should be used as efficiently as possible. Lots need to be carefully layed out in the most buildable areas, maximizing the use of the shoreline. Selling land under the homestead program in five acre lots over rugged terrain would result in an extremely inefficient pattern of land use.

The primary difference between the homestead program and the homesite program (other than name popularity of the first) is that the homesite survey is completed by the state. While this is a greater expenditure of public funds, it is a much more efficient use of public resources. In Southeast Alaska, when state land is a scarce and valuable resource, the need for efficient land management far outweighs the cost of survey.

While the state would not incur the cost of surveying homestead land, the state does issue survey instructions, spend countless hours answering questions, doing field inspections, corresponding with applicants over staking problems, and managing the useless left-over pieces of real estate. That cost to the state could easily exceed the cost of subdivision.

When land in Southeast Alaska does have fairly uniform terrain and can be described by aliquot part, it can be offered under the homestead program. The disposal at Cape Pole (Kosciusko Island) is an example; the FY 86 proposed sale includes a 200 net acre area for homesteading.

Introduced: 4/29/83
Referred: Resources

IN THE HOUSE BY KOPONEN

HOUSE BILL NO. 387

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to land surveys."

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

* Section 1. AS 34 is amended by adding a new chapter to read:

CHAPTER 65. LAND SURVEYS.

Sec. 34.65.010. PURPOSE. The purpose of this chapter is to provide a method for preserving evidence of land surveys by providing for the filing of monument records. The provisions of this chapter are supplementary to laws relating to platting and subdivision surveys.

Sec. 34.65.020. FILING OF MONUMENT RECORD BY LAND SURVEYOR. (a) A land surveyor who conducts a survey that uses a monument as a control corner shall file with the commissioner a monument record describing the monument unless the monument and its accessories are substantially as described in a monument record filed within the three years before the initiation of the survey under this chapter or in a subdivision survey approved by a municipal platting board.

(b) A land surveyor who at any time establishes a monument or reestablishes, restores, or rehabilitates a monument to make it readily identifiable or reasonably durable shall file a monument record with the commissioner.

(c) A land surveyor required to file a monument record under this section shall file the record within 90 days of the completion of the survey or of the establishment, reestablishment, restoration, or rehabilitation of a monument.

(d) A monument record shall be filed with the commissioner for each control corner before a monument is removed or disturbed in construction. The person responsible for the construction project has the responsibility for filing the monument record.

(e) A monument shall be described in terms of three or more accessories and shall be certified, signed, and sealed by the land surveyor responsible for the survey.

Sec. 34.65.030. WHEN MONUMENT RECORD NOT REQUIRED TO BE FILED. A monument is not required to be filed with the commissioner when a plat is in preparation for recording or has been recorded as a subdivision survey approved by a state or municipal platting authority.

Sec. 34.65.040. DUTIES OF COMMISSIONER. (a) The commissioner may adopt regulations to implement this chapter.

(b) The commissioner may not collect a fee for filing a monument record. The commissioner may charge a fee for the reproduction of a monument record.

(c) The commissioner shall provide a copy of a monument record filed under AS 34.65.020 to the municipal clerk or recorder with responsibility for the area of the state in which the monument is located.

Sec. 34.65.050. DUTIES OF MUNICIPAL CLERK OR RECORDER. Each municipal clerk and recorder shall maintain a file which is open to the public of the monument records provided by the commissioner under AS 34.65.040(c).

Sec. 34.65.060. CIVIL PENALTIES. A person who wilfully or knowingly removes or disturbs a monument without complying with AS 34.65.020 is subject to a civil penalty of not more than $10 a day for each day the delinquency continues after the time the monument record is required to be filed as determined by the commissioner

subject to right of appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commissioner by a person against whom a civil penalty is assessed.

Sec. 34.65.100. DEFINITIONS. In this chapter,

(1) "accessory" means physical evidence in the vicinity of a survey monument that is used to perpetuate the location of the monument;

(2) "Alaska state land survey monument" means a monument that is permanent in nature, that may be used to control the relocation of a lost corner, and that is established in a cadastral survey completed under the direction of the commissioner;

(3) "aliquot corner" means a corner established under established principles of land surveying by or under the supervision of a land surveyor;

(4) "bench mark" means a relatively immovable point that has a known elevation above or below sea level;

(5) "commissioner" means the commissioner of natural resources;

(6) "control corner" means a monument whose position controls the location of the boundaries of a parcel of land;

(7) "land surveyor" means a professional land surveyor licensed under AS 08.48;

(8) "monument" means

(A) a public land survey monument;

(B) an Alaska state land survey monument;

(C) an aliquot corner monument from a section corner through the 1/16th corner;

(D) primary monuments within a legal subdivision;

(E) a United States Geological Survey monument;

(F) a United States Corps of Engineers monument;

(G) a United States National Ocean Survey monument;

(H) a monument established by a predecessor of or successor to an agency described in this subsection; or

(I) a monument established under AS 34.65.020(b);

(9) "monument record" means a written and illustrated document describing a monument or a bench mark and their accessories;

(10) "public land survey monument"

(A) means a monument established in a cadastral survey by the Bureau of Land Management;

(B) includes a monument established by the United States mineral surveyor and made a part of the public land records of the Bureau of Land Management.

purpose connected with the operations of the company, such corporation may acquire title to such real estate or right-of-way, or easement or other right, in the manner provided by law for the condemnation of real tate, or right-of-way. Any ditch, reservoir, or pipeline company, the same manner, may condemn and acquire the right to take and use any water not previously appropriated.

General:

By the 1952 amendments, this section is sufficiently broad to include necessary acquisition of land for construction of a generating plant and where a petition alleges the sale is for a public purpose, a motion to dismiss admits such purposes. Miller v. Public Service Co. of Colo. (1954) 129 C. 513, 272 P. 2d 283.

This section does not include, within the purposes for which land may be condemned, the acquisition of land by eminent domain for the enlargement of an electric generating plant for machine shops and storage of coal supply (prior to 1952 amendment). Potashnik v. Public Service Co. of Colorado (1952) 126 C. 98, 247 P. 2d 137.

When a petition in eminent domain proceedings, brought under this section, conforms with the statute and contained necessary jurisdictional averments, it was error for court to dismiss action. Otero Irrigation Dist. v. Enderud (1950) 122 C. 136, 220 P.2d 862.

A mining company has a right to condemn land for right-of-way for a pipeline for the milling of ore by authority of this section. Pine Martin Mining Co. v. Empire Zinc Co. (1932) 90 C. 529, 11 P.2d 221.

Private ways of necessity are not confined to the common law easements so designated which existed by implied grant. Under this section "ways of necessity" include the location of a road by a private corporation across private lands by the only practical way to reach property of the petitioner. Such question of necessity is a judicial question except where a statute provides otherwise. Crystal Park Co. v. Martin (1915) 27 C. A 74, 146 P. 566. (Compare: Pine Martin Mining Co. v. Empire Zinc Co. (1932) 90 C. 529, 11 P.2d 221, on "necessity".)

Where a mining and drainage tunnel is authorized which is to be used by such mine owners as desire to avail themselves thereof eminent domain is proper under this section. While not conclusive on the courts, the legislative judgment as to the question of public use and service is entitled to great weight; and the general assembly is the exclusive judge of the necessity of vesting power of eminent domain subject to the determination of the courts. Tanner v. Treasury Tunnel & Mining Co. (1906) 35 C. 593, 83 P. 464.

50-2-2. Entering lands to survey--liability.--Any corporation formed, for the purpose of constructing a road, ditch, tunnel or railroad, may cause such examination and survey as may be necessary to the selection of the most advantageous route, and for such purpose, by its officers, agents or servants, may enter upon the lands of any person or corporation, but subject to liability for all actual damages which shall be occasioned thereby.

36-18-38. Board inquiries and investigation of violations -- Report and prosecution. It shall be the duty of the board of examiners to inquire into the identity of any person alleged to be engaging in the unlawful practice of architecture, professional engineering or land surveying. It shall be the duty of the board to investigate every alleged violation of the provisions of this chapter, and report to the proper state's attorney any person or case that in the judgment of the board warrants prosecution. It shall be the duty of the attorney general and the several state's attorneys to prosecute violations of this chapter, in the name of and on behalf of the board.

36-18-39. Injunction to prevent violations of chapter -- Election of remedies. The board of examiners may proceed by injunction to restrain violations of the provisions of this chapter, as an alternate to criminal proceedings. The commencement of one proceeding by the board constitutes an election.

36-18-40. Severability of provisions. If any provision of this chapter or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application and to this end the provisions of this chapter are declared to be severable.

B. Powers of Surveyors, Public Utility Corporations, Other Miscellaneous

1-1-9. Map of federal acquisitions to be filed -- Recording of evidence of title. A map of any land acquired by the United States, under the provisions of this chapter, shall be filed and recorded in the office of the secretary of state and the evidence of the United States' title shall be recorded in the county wherein the land is situated as in other cases relating to the transfer of real property.

1-1-10. Land entry authorized to survey boundaries -- Consent required to enter mine -- Damage to property. For the purpose of making surveys required by or essential to the effect of any acts of the United States Congress or of the Legislature of this state or for the determination of boundaries of real estate, any of the duly authorized officers or agents of the United States or of this state, or any engineer or land surveyor duly qualified or registered under the laws of this state, and the persons necessarily and lawfully employed in making any such survey may enter upon lands within the boundaries of this state for such purposes, but this section shall not be construed as authorizing any unnecessary interference with private rights. Nothing in this section shall be construed to permit any person to enter any shaft, tunnel, stope, or underground workings of any individual person engaged in mining for precious metals without consent of the owner or person in possession of such shaft, tunnel, stope, or underground working.

Nothing herein contained shall exempt any person from payment of actual damages done by him while upon such land.

NEW MEXICO

61-23-2. Right of entry on public and private property; responsibility.

The engineers and surveyors of the United States and of the state of New Mexico and registered professional engineers and land surveyors of the state of New Mexico shall have the right to enter upon the lands and water of the state and of private persons and of private and public corporations within the state for the purpose of making surveys, inspections, examinations and maps, subject to responsibility for actual damage to crops or other property, or for injuries resulting from negligence or malice caused on account of such entry so made.

History: Laws 1933, ch. 130, § 2; 1941 Comp., § 51-2427; Laws 1947, ch. 110, § 3; 1953 Comp., § 67-21-27.

Cross-references. — For suit on county surveyor's bond, see 4-42-2 NMSA 1978. As to penalties for interfering with county surveyor, see 4-42-6 NMSA 1978. As to entry for county drain surveys, see 72-4-1 NMSA 1978.

Applies to Army Corps of Engineers. — The U.S. Army Corps of Engineers may go upon state-owned or private land and make core drilling and surface cut explorations to determine the feasibility of certain civil flood control projects in the state of New Mexico. 1957-58 Op. Atty Gen. No. 57-51.

Am. Jur. 2d and C.J.S. references. — 63 Am. Jur. 2d Public Lands §§ 56 to 64.

73 C.J.S. Public Lands §§ 36 to 71.

61-23-3. [Violation of reference mark and entry provisions.]

Any person violating any of the provisions of this act [61-23-1 to 61-23-3 NMSA 1978] shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five ($25.00) dollars nor more than one hundred ($100.00) dollars for each such offense.

History: Laws 1933, ch. 130, § 3; 1941 Comp., § 51-2428; 1953 Comp., § 67-21-28.

61-23-4. Short title.

Article 23 of Chapter 61 NMSA 1978 may be cited as the "Engineering and Land Surveying Practice Act."

History: 1953 Comp., § 67-21-29, enacted by Laws 1957, ch. 211, § 1; 1979, ch. 363, § 1.

The 1979 amendment substituted the provisions of the present section for the former section which read: "This act may be cited as the 'Engineering Practice Act.'"

61-23-5. Declaration of policy.

The legislature declares that it is a matter of public safety, interest and concern that the practice of engineering and of land surveying merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of engineering or land surveying, and in order to safeguard life, health and property, and to promote the public welfare, any person in either public or private capacity practicing or offering to practice engineering or land surveying shall be required to submit evidence that he is qualified to so practice and shall be registered as provided; and it shall be unlawful for any person to practice or offer to practice in the state, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a professional engineer or professional land surveyor or land surveyor, unless such person is duly registered or exempt under the provisions of the Engineering and Land Surveying Practice Act. That act shall be construed in accordance with this declaration of policy.

History: 1953 Comp., § 67-21-30, enacted by Laws 1957, ch. 211, § 2; 1979, ch. 363, § 2.

The 1979 amendment substituted "engineering or land surveying" for "engineering and land surveying" following "to engage in the practice of" near the beginning of the section, and substituted "professional engineer or professional land surveyor or land surveyor" for "professional engineer, professional engi-

NORTH DAKOTA

shall be deemed a more necessary public use than use for the same purpose by a private corporation, and whenever a right of way shall have been taken and the person, firm, or corporation taking such right of way shall fail or neglect for five years to use the same for the purpose to which it had been appropriated, the attempt by another person, firm, or corporation to appropriate such right of way shall be considered a more necessary public use;

4. Franchises for toll roads, toll bridges, ferries, and all other franchises, but such franchises shall not be taken unless for free highways, railroads, or other more necessary public use;
5. Any system of waterworks, electric light and power plant, wells, reservoirs, pipelines, machinery, franchises, and all other property of any character whatsoever comprising a waterworks system or an electric light and power system;
6. All rights of way for any and all the purposes mentioned in section 32-15-02 and any and all structures and improvements thereon, and the lands held or used in connection therewith, shall be subject to be connected with, crossed or intersected by any other right of way or improvement or structure thereon. They also shall be subject to a limited use in common with the owner thereof when necessary, but such uses, crossings, intersections, and connections shall be made in the manner most compatible with the greatest public benefit and the least private injury; and
7. All classes of private property not enumerated may be taken for public use when such taking is authorized by law.

32-15-05. What must appear before property taken.--Before property can be taken it must appear:

1. That the use to which it is to be applied is a use authorized by law;
2. That the taking is necessary to such use; and
3. If already appropriated to some public use, that the public use to which it is to be applied is a more necessary public use.

32-15-06. Entry for making surveys.--In all cases when land is required for public use, the person or corporation, or his or its agents, in charge of such use may survey and locate the same, but it must be located in the manner which will be compatible with the greatest public benefit and the least private injury and subject to the provisions of section 32-15-21. Whoever may be in charge of such public use may enter upon the land and make examinations, surveys, and maps thereof, and such entry shall constitute no cause of action in favor of the owner of the land except for injuries resulting from negligence, wantonness, or malice.

Operation and Effect (Court Decisions) In an application for a permit to enter upon private property for the purpose of making a survey and testing soil, plaintiff was required to show only that it was in the category of persons entitled to seek eminent domain, and was not required to prove that at that stage of the proceedings eminent domain was proper, justified and necessary. Square Butte Elec. Cooperative v. Dohn, 219 NW 2d 877 (1974).

2. Arbitration

32-29-01. When arbitration authorized.--Persons capable of contracting may submit to the decision of one or more arbitrators any controversy which might be the subject of a civil action between them, except the question of title to real property in fee or for life. This qualification does not include questions relating merely to the partition or boundaries of real property.

right to install a gate in the fence so as to give the owners a farm crossing. Hildebrand v. Chicago, B. & Q.R.R., 45 Wyo. 175, 17 P.2d 651 (1933).

Jury questions. — Where cattle were injured by entering railroad's property by private gate which was not protected by cattle guards and plaintiff makes out prima facie case independent of former § 37-210, question of negligence is for jury. Hildebrand v. Chicago, B. & Q.R.R., 45 Wyo. 175, 17 P.2d 651 (1938).

Where railroad has knowledge that gates along right of way are customarily left open and no steps are taken to correct the custom, question of railroad's negligence when cattle are injured is for the jury. Hildebrand v. Chicago, B. & Q.R.R., 45 Wyo. 175, 17 P.2d 651 (1933).

ARTICLE 3. ROADS, DITCHES AND FLUMES; PIPE, ELECTRIC TRANSMISSION, TELEPHONE AND TELEGRAPH LINES

Cross references. — As to telegraph lines generally, see art. 10, §§ 12, 15 to 18, Wyo. Const. For provision that telegraph, telephone or electric light line shall not be constructed within the limits of any municipal organization without the consent of its local authorities, see art. 13, § 4, Wyo. Const. As to incorporation of ditch company, see § 17-12-101. As to incorporation of flume company, see § 17-12-106. As to incorporation of telegraph company, see § 17-12-107. As to mining corporations preempting right-of-way over public lands, see § 30-1-128. As to power of public service commission to direct manner of use of public highways by public utilities, see § 37-3-114.

Editor's note. — This article was not enacted as part of the original Civil Code.

Law review. — See note, "Compensation for Condemnation: Recent Wyoming Development," 17 Wyo. L.J. 246 (1963).

Am. Jur. 2d, ALR and C.J.S. references. — 26 Am. Jur. 2d Eminent Domain §§ 73, 102, 112, 126, 138.

Right to use or permit use for private telegraph or telephone line of street or highway, 34 ALR 405.

Furnishing electricity for telegraph or telephone system as a public use, 44 ALR 752; 58 ALR 787.

29A C.J.S. Eminent Domain §§ 65 to 86.

§ 1-26-301. Right-of-way along public ways granted; permission necessary for new lines.

Corporations organized under the laws of this state or of any other state or of the United States for the purpose of constructing, maintaining and operating telephone, telegraph or electric transmission and distribution lines may set their poles, piers, abutments, wires and other fixtures along, across or under any of the public roads, streets and waters of this state in such manner as not to inconvenience the public in their use. Any telegraph, telephone or other company desiring to place their wires or other fixtures underground in any city shall first obtain consent from the city through the municipal authorities. A person or firm must first obtain permission from the state highway commission or the board of county commissioners in the county where the construction is contemplated before entering upon any state highway or county road for the purpose of commencing the construction of any new telephone, telegraph, or electrical transmission or distribution lines. (Laws 1901, ch. 31, § 1; C.S. 1910, § 3870; C.S. 1920, § 4934; R.S. 1931, § 38-301; Laws 1939, ch. 80, § 1; C.S. 1945, § 3-6201; W.S. 1957, § 1-791; Laws 1977, ch. 188, § 1.)

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FLUMES; PIPE, LEPHONE ES

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ALR and C.J.S. references. — minent Domain §§ 73, 102, 112.

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electricity for telegraph or m as a public use, 44 ALR 752,

inent Domain §§ 65 to 86.

granted; permission

e or of any other state or maintaining and operating ibution lines may set their g, across or under any of n such manner as not to lephone or other company ound in any city shall first horities. A person or firm commission or the board struction is contemplated road for the purpose of , telegraph, or electrical 1; C.S. 1910, § 3870; C.S. § 1; C.S. 1945, § 3-6201;

§ 1-26-302. Same; right of entry upon private lands.

(a) The companies may enter upon any land whether owned by private persons or corporations in fee or in any less estate, except railroad rights-of-way, for the purpose of making preliminary surveys and examination as may be necessary to erect poles, piers, abutments, wires or other fixtures for telephone, telegraph or electric transmission or distribution lines. The companies may make such changes of location of the lines as may be deemed necessary, shall have the right of access to construct the line and, as may be required, to make repairs, and may obtain the right-of-way and condemn the land therefor in the manner provided in the Wyoming Rules of Civil Procedure.

(b) If the landowner has not consented to the entry, no entry shall be authorized until the company has deposited with the public service commission a cash or surety bond of two thousand dollars ($2,000.00). The public service commission shall release the bond to the company upon sufficient showing that the company has reached an agreement for entry with the landowner. If the company causes any damage to a landowner's property prior to reaching an entry agreement, the bond shall be withheld for distribution as determined by a court of law or upon a settlement agreement between the company and landowner. (Laws 1901, ch. 31, § 2; C.S. 1910, § 3871; C.S. 1920, § 4935; R.S. 1931, § 38-302; Laws 1939, ch. 80, § 2; C.S. 1945, § 3-6202; W.S. 1957, § 1-792; Laws 1977, ch. 73, § 2; ch. 188, § 1.)

Cross reference. — For provision as to condemnation of property, see Rule 71.1, W.R.C.P.

The 1977 amendment designated the formerly undesignated provisions of this section as subsection (a), added subsection (b), and in subsection (a), substituted "the Wyoming Rules of Civil Procedure" for "section 38-303" at the end of the subsection and made other minor changes in style.

Editor's note. — Section 1-27-302, which was enacted by § 1, ch. 188, Laws 1977, has been made subsection (a) of this section and § 1-792(b), W.S. 1957, which was amended by § 2, ch. 73, Laws 1977, has been made subsection (b) of this section. This was a Revisor's change. This section has also been renumbered from § 1-27-302 to § 1-26-302 because of chapter renumbering.

Effective dates. — Section 3, ch. 80, Laws 1939, makes the act effective from and after passage. Approved February 18, 1939.

Section 3, ch. 73, Laws 1977, makes the act effective May 27, 1977.

§ 1-26-303. Right of eminent domain granted.

Whenever any road, ditch, telegraph, telephone or fluming company, or any petroleum or other pipeline company, organized or to be organized under the provisions of this chapter, or any law of this state, or under the laws of any other state and legally doing business in this state, shall not have acquired by gift or purchase, any land, real estate or claim required for the construction or maintenance of their road, ditch, flume, pipe, telegraph or telephone line, or which may be affected by any operation connected with the construction or maintenance of the same, the said corporation shall have the right of eminent domain and may condemn the land, real estate, right-of-way or claim required by the corporation in the manner provided by the Wyoming Rules of Civil

(c) Wherever in those counties the amount of Indian lands or those exempt from taxation by reason of the operation of any federal law is thirty percent (30%) or more of the total area of the county, then the Board of County Commisioners may, upon its own initiative, and if the public interests demand it, move to secure roads over, adjacent to, or for the benefit of all such exempted lands in the following manner: The Board shall call upon the Director as a disinterested party to undertake and make such surveys, plans and estimates and obtain all other essential data and records as are required to make a full and complete statement and report upon the interest involved, and to make such recommendations as in the premises may seem proper. When so prepared, the Department shall then advance the matter to the Department of the Interior of the United States, or to any other federal department concerned, through its proper local representative, if there be one, with the request that the matter be considered and disposed of as speedily as possible. If the project be so approved and authorized, then the work may proceed under the special supervision and direct administration of the Department and subject to such special regulations as the circumstances seem to require.

OKLAHOMA

69 § 651. Section and quarter section corners

The provisions of Sections 1229-1233 of this Code, relating to the marking and obliteration of section and quarter section corners within rights-of-way of State highways, shall apply with full force and effect and in like manner to the Board of County Commissioners of each county, whenever section corners or quarter section corners are obliterated, or may be obliterated by the construction or resurfacing of either low type or high type paved roads of any county highway within the county.

69 § 702. Entry upon premises to make surveys and examinations for establishment or relocation of highways—Notice

The Department, through its authorized agents and employees, may enter upon any lands, waters, and premises in the State for the purpose of making surveys, soundings and drillings, and examinations as may be determined necessary or convenient for the purpose of establishing, locating, relocating, constructing, and maintaining State highways or relocations thereof and facilities necessary and incidental thereto. Such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; but notice shall be given to the owner of or person residing on the premise, personally or by registered mail, at least ten (10) days prior to such entry.

69 § 703. Reimbursement for actual damages

The Department shall make reimbursement for any actual damages resulting to such lands, waters, premises and property as a result of activities pursuant to the preceding Section. In the event of disagreement as to the amount of the damage, either the person damaged or the Department may file a petition with the District Court for the appointment of commissioners to appraise the damages and proceed to have the same determined as in condemnation proceedings.

69 § 704. Commission to complete and revise maps

The Commission may complete the topographic mapping of the State of Oklahoma and revise existing United States Topographic maps of the State, so that a complete and accurate map of the entire State may be complete and obtained by State departments and agencies. the Federal Government. and all persons desiring information relative to the natural resources of the State

69 § 705. United States Geological Survey, agreements with

The commission may enter into agreements with the Director of the United States Geological Survey, or legal successor thereof, for the purpose of making the necessary surveys and maps, and preparing data covering topographic surveys, so that they may be made available for public use.

69 § 706. Expenses

The Commission shall pay the expenses incurred under Sections 704 and 705 out of the State Highway Construction and Maintenance Fund upon proper vouchers. Provided, that any funds so expended shall be matched by the United States Government, and the total expenditures of State funds shall not exceed Fifty Thousand Dollars ($50,000.00) in any fiscal year.

69 § 707. Surveys—Lawful to cross premises

For the purpose of carrying into effect the provisions of Sections 704 and 705, it shall be lawful for all persons employed in the making of the topographic survey to enter upon and cross all lands within the State; provided, however, that in so doing no damage shall be done to private property.

69 § 1229. Location and identification of corners within right-of-way

The Department shall, in cooperation with the County Surveyor of the county affected, locate section and quarter section corners within the right-of-way of all State highways when surveys and plans are being made for contemplated new construction or resurfacing, and re-mark such corners in the right-of-way by a suitable marker, of a design to be approved by the Department. Whenever such corners are located on a highway to be hard-surfaced, or resurfaced, the Department shall identify such corners on the roadway by bronze surface markers, of a design to be approved by the Department.

69 § 1230. Obliteration of corners by highway construction

Where any section or quarter section is obliterated, or may be obliterated, by highway construction, the Department shall witness the location of such corners by two or more well defined objects located outside of the contemplated right-of-way limits and shall note such witnesses on the highway construction plans.

69 § 1231. Re-marking of existing corners

The Department shall also re-mark existing section corners and quarter section corners on State Highways that are now paved, with markers similar to those described herein, where reliable reference ties are available.

his deputy a professional engineer; *Provided*, this requirement shall not apply if the county surveyor is both a professional engineer and a Registered Land Surveyor.

Source: Laws 1879, § 127, p. 386; Laws 1905, c. 50, § 1, p. 295; R.S.1913, § 5685; Laws 1921, c. 141, § 1, p. 606; C.S. 1922, § 5015, C.S.1929, § 26-1601; Laws 1939, c. 28, § 16, p. 154; C.S.Supp.,1941, § 26-1601; R.S.1943, § 23-1901; Laws 1969, c. 170, § 1, p. 747.

23-1901.01. County surveyor; appointment from another county; when. When there is no qualified surveyor within a county who will accept the office of county surveyor, the county board of such county may appoint a competent surveyor from any other county of the State of Nebraska to such office.

Source: Laws 1951, c. 45, § 1, p. 162.

23-1902. Chainmen; employment; oath. All necessary chainmen shall be employed by the person or persons causing the survey to be made. The chainmen shall be disinterested persons, and approved of and sworn by the surveyor to measure justly and exactly, to the best of their knowledge and ability, all lines measured by them.

Source: Laws 1879, § 130, p. 386; R.S.1913, § 5686; C.S.1922, § 5016; C.S.1929, § 26-1602.

23-1903. Witnesses; attendance and testimony; power to compel; fees. The county surveyor or his deputy, in the performance of his official duties, shall have the power to summon and compel the attendance of witnesses before him, to testify respecting the location and identification of any line or corner. When any such witness testifies to any material fact, his testimony must be reduced to writing and subscribed by him and made a matter of record. The county surveyor and his deputy are hereby authorized and empowered to administer oaths and affirmations to any person appearing as a witness before them. But the testimony as provided for herein shall never be used as evidence in any action involving corners or boundary lines, except for the purpose of impeachment. Each witness shall be entitled to the same fees allowed before justices of the peace.

Source: Laws 1913, c. 43, § 1, p. 142; R.S.1913, § 5687; Laws 1921, c. 138, § 1, p. 604; C.S.1922, § 5017; C.S.1929, § 26-1603.

23-1904. Surveyor's certificate; use as evidence; effect. The certificate of the county surveyor of any survey made by him of any lands in the county shall be presumptive evidence of the facts stated therein, unless such surveyor shall be interested in the same.

Source: Laws 1913, c. 43, § 2, p. 142; R.S.1913, § 5688; C.S.1922, § 5018; C.S.1929, § 26-1604.

NEBRASKA

23-1905. Surveyor; interest; disqualification; who may act. Whenever a survey of any lands or lots is required, in which the county surveyor is interested, such survey may be made by the surveyor of another county in like manner and to the same effect as though such survey had been made by the surveyor of the county where the land is situated. The surveyor doing the work shall record the field notes of said survey in the official record of surveys of the county wherein the land is situated.

Source: Laws 1913, c. 43, § 3, p. 142; R.S.1913, § 5689; C.S.1922, § 5019; C.S.1929, § 26-1605.

23-1906. Trespass; exemption from liability. The county surveyor in the performance of his official duties, shall not be liable to prosecution for trespass.

Source: Laws 1913, c. 43, § 4, p. 143; R.S.1913, § 5690; C.S.1922, § 5020; C.S.1929, § 26-1606.

County surveyor, when in performance of his official duties, is not liable to prosecution for trespass. Kissinger v. State, 123 Neb. 850, 244 N.W. 794.

23-1907. Original corners; perpetuation. It shall be the duty of the county surveyor in surveys made by him to prepetuate all original corners not at the time well marked, and all corners or angles that he may establish or reestablish, in a permanent manner by setting monuments of concrete, burned vitrified clay, iron or stone, and depositing at the base thereof, at a suitable depth to protect it from loss or destruction, a memorial of durable material upon which shall be marked the date and the initial letters of the surveyor's name, and where the corner is unmistakably a government corner, the letters G.C. (initial letters of the words Government Corner), in addition thereto; and where suitably growing trees are convenient to such corner or angle, he shall, in addition to said monument and memorial, carefully note the direction and distance to the middle of each tree, the size and kind of tree, all of which shall be carefully noted in the field notebook provided for that purpose. Where witness pits were dug at any original government corners, and they can be identified as such, the surveyor shall record their directions and distances from the corner, according to the instructions of the State Surveyor.

Source: Laws 1913, c. 43, § 5, p. 143; R.S.1913, § 5691; C.S.1922, § 5021; C.S.1929, § 26-1607.

23-1908. Corners; establishment and restoration; rules governing. The boundaries of the public lands established by the duly appointed government surveyors, when approved by the Surveyor General and accepted by the government, are unchangeable, and the corners established thereon by them shall be held and considered as the true corners which they were intended to represent, and the restoration of lines and corners of said surveys and the division of sections into their legal subdivisions shall be in accordance with the laws of the United States, the circular of instructions of the commissioner of the general land office on the restoration of lost

KANSAS

26-5. PROCEDURE ACT. 26-501 to 26-517.

26-512. Same; making surveys and location. The prospective condemner or its agents may enter upon the land and make examinations, surveys and maps thereof, and such entry shall constitute no cause of action in favor of the owners of the land, except for actual damages thereto. [L. 1963, ch. 234, § 12; Jan. 1, 1964.]

DELIVER TO: JPOM

ORIGINAL
SENT: 02/11/85 TIME: 17:05
FROM: MICKI HENSON
SUBJECT: POM
PRINT DATE: 02/11/85 TIME: 17:05

29

TO: THE ANCHORAGE-DELEGATION

SENATORS ABOOD, FAIKS, V. FISCHER, HALFORD, KELLY, RODEY, STURGULEWSKI

REPRESENTATIVES BOUCHER, CLOCKSIN, COLLINS, COTTEN, FURNACE, GRUENBERG, HANLEY, JENKINS, MARTIN, PEARCE, PETTYJOHN, PHILLIPS, PIGNALBERI, POURCHOT, RIEGER, SZYMANSKI, UEHLING, KOPONEN, NAVARRE RINGSTAND, SUND

FROM: SHERWIN A. START
320 MCCAREY STREET'C'
ANCHORAGE, AK. 99504 PHONE: 337-8988 HOME

RE: HB 170

GOOD BILL ! 34.65.020(A) AND (B) COULD BE INTERPRETED TO EXCLUDE THE GENERAL PUBLIC FOR LOOKING FOR A SURVEY MONUMENT. ALSO OPEN UP THIS MONUMENT RECORDING CAPABILITY TO THOSE THAT CAN SHOW COMPETENCE . THERE ARE MANY HUNDEREDS OF PEOPLE IN THE STATE THAT ARE EXPERT IN THE LOCATION AND RECOGNITION AND VERIFICATION OF SURVEY MONUMENTS.

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.

James O. Smith
Signature of Camera Operator

11/24/89
Date

02-519 (REV 8/78)

SB

1424

SB 144
Bill file

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* DELIVER TO: JPOM
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* ORIGINAL
* SENT: 01/31/86 TIME: 08:33
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********** E O M **********

TO: SEN. COGHILL, ELIASON, FAHRENKAMP, FISCHER, V., HALFORD, STURGULEWSKI, ZHAROFF
REP. SHULTZ

Kie

FROM: ERIC NASHLUND
SR BOX 271
COPPER CENTER, ALASKA 99573
822-3602

RE: SB 144 ACT REPEALING THE 25-CENT RESIDENT HUNTING, TRAPPING, AND SPORT FISHING LICENSE.

25-CENT LICENSE MUST BE DONE AWAY WITH AS IT UNDERMINES THE INTENT FOR THE FUNDING OF WILDLIFE MANAGEMENT.

EOM

Please complete Section A, B or C, and Section D

A. 25¢ License Only
B. Duplicate License Only
C. Military License Only
D. All Applicants

AFFIDAVIT SUPPORTING LICENSE APPLICATION FOR SPORT FISHING, HUNTING AND TRAPPING

A. RESIDENT CLASS 5A TWENTY-FIVE CENT LICENSE

This license class applies only to residents of the state of Alaska who are non-military. It is not now nor has it ever been the intent of the Legislature to include military personnel in the Class 5A Hunting, Sport Fishing and Trapping License issued for a fee of $.25.

I am not a member of the United States armed services stationed in Alaska on active duty, and I am entitled to the Resident Hunting, Sport Fishing and Trapping License for a fee of $.25 for the following reasons:

CHECK ONE STATEMENT IN BOTH SECTIONS THAT APPLIES TO THE APPLICANT.

☐ 1. I am the head of a family, or a dependent member of a family; or

☐ 2. I am solely dependent on myself for support.

AND

☐ 1. I am obtaining or have obtained during the immediately preceding six months, assistance under a state or federal welfare program to aid the indigent; or

☐ 2. My family's gross annual income has been less than $5,600.00 for the year immediately preceding application.

B. DUPLICATE SPORT LICENSE

Note: A separate duplicate license must be issued for each class of license lost.

I hereby report the loss of my current Sport License issued to me in accordance with the Fish and Game Code of Alaska as follows:

License Class and Type	Number of License, If Known	Date of Issuance

Issued By (Name of License Officer)	Place of Issuance

C. NONRESIDENT MILITARY CLASSES 12, 13, 14

I am entitled to the special nonresident Military Sport Fishing and Small Game Hunting License at the same fee paid by residents of the state of Alaska for the following reason:

☐ 1. I am a member of the military service on active duty permanently stationed in Alaska; or

☐ 2. I am a dependent of a member of the military service on active duty permanently stationed in Alaska.

Branch of Military Service

Rank and Serial Number

Assigned Duty Station

If a Dependent, Show Relationship

D. I hereby certify under penalty of perjury that all of the above information is true and correct.

Signature of Licensee X

Date

04-261 (7/84)

RECEIVED
ALASKA DEPARTMENT OF REVENUE
APR 8 1985
OFFICE OF THE COMMISSIONER

Dept. of Revenue
Fish & Game Licensing
1111 W. 8th. St., Rm. # 108
Juneau, Ak. 99801

GROSS SPORT FISH AND GAME LICENSE RECEIPTS 1974 THROUGH 1983

NUMBER SOLD

Prepared February 9, 1983

CODE	TYPE OF LICENSE	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983
201	R. Sport Fishing	50,593	54,561	66,409	76,892	83,824	83,782	82,934	85,250	96,293	103,742
202	R. Hunting	19,699	16,205	17,003	21,470	21,803	22,618	22,945	23,684	26,151	27,295
203-A	R. Hunt/Trap	1,109	1,181	1,328	2,063	1,947	2,170	2,378	2,510	2,534	2,723
204	R. Spt. Fish/Hunt	32,394	34,779	37,380	30,403	29,885	29,004	29,711	32,241	36,166	40,235
205	R. Fish/Hunt/Trap	6,239	7,551	9,606	9,153	9,141	9,328	9,953	10,620	11,983	13,236
206	NR. 10-Day Spt. Fish	21,702	24,228	26,706	23,564	28,600	34,473	35,521	39,149	46,495	36,129
207	NR. Sport Fishing	16,009	19,953	20,777	12,766	12,935	12,411	14,174	17,588	22,149	19,648
208	NR. Hunting	6,636	5,437	5,390	3,656	3,552	4,345	4,504	4,575	4,648	4,241
209	NR. Fish/Hunt	1,680	1,640	1,711	803	787	1,002	953	1,078	1,255	977
210	NR. Hunt/Trap	24	26	37	52	67	53	61	86	70	46
211	NR. 1-Day Spt. Fish	------	------	------	11,174	14,800	16,346	17,187	21,984	26,859	37,982
212	NR. Military Spt. Fish	------	------	------	6,527	7,447	6,980	6,024	6,516	6,994	6,655
213	NR. Military Small Hunt	------	------	------	841	1,077	979	931	1,104	1,035	974
214	NR. Military Fish/Hunt	------	------	------	987	912	878	840	1,092	1,262	1,090
217-3B	R. Trap	890	759	1,210	1,589	1,480	1,465	1,526	1,633	1,430	1,349
218	Duplicate License	1,611	1,487	2,218	2,748	2,949	2,905	3,097	3,456	3,706	4,517
120	Fish/Fur/Game Farm	5	1	2	2	2	4	6	6	3	1
121	R. Fur Dealer	136	121	136	107	189	105	111	113	168	81
122	NR. Fur Dealer	3	4	3	4	7	5	10	6	5	4
123	R. Taxidermy	42	36	41	45	63	37	52	71	83	56
124	NR. Taxidermy	------	2	------	1	1	2	2	1	2	------
	Reg. & Master Guides	------	------	------	------	------	------	------	------	------	------
	Ass't. Guides	------	------	------	------	------	------	------	------	------	------
	Class "A" Ass't Guides	------	------	------	------	------	------	------	------	------	------
200	Permit Fees	------	------	------	218	20,034	18,915	30,603	40,328	38,413	38,630
201-B	R. Blind Spt. Fish	3	5	3	2	13	10	7	4	1	8
205-A	R. 25¢ Hunt/Fish/Trap	6,256	5,004	5,281	5,463	6,887	8,334	9,498	10,669	11,882	12,540
229	Guide Fees	------	------	------	------	------	------	34	46	11	21
230	King Sal./Steelhead Per.	------	------	------	------	------	------	64,734	84,838	93,500	725
215	R. Big Game Tags	------	------	------	2,937	3,449	3,538	3,899	4,486	5,093	6,260
216	NR. Big Game Tags	8,331	6,956	7,415	5,775	5,426	7,301	7,314	7,186	6,980	5,804
TOTAL		173,362	179,936	202,656	219,242	257,277	266,990	349,009	400,320	445,171	364,948

Certified by: _____ Date: _____

1984 - # sold 13,176

Gross Amt - $3,294.00

lgh 4-4-85

Dept. of Revenue
Fish & Game Licensing
1111 W. 8th. St., Rm. # 108
Juneau, Ak. 99801

GROSS SPORT FISH AND GAME LICENSE RECEIPTS 1974 THROUGH 1983

GROSS AMOUNT

Prepared February 9, 1983

REC. CODE	TYPE OF LICENSE	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983
		$	$	$	$	$	$	$	$	$	$
201	R. Sport Fishing	252,965.00	272,805.00	332,045.00	763,250.00	838,190.00	836,726.58	829,340.00	852,500.00	964,913.25	1,037,420.00
202	R. Hunting	137,893.00	113,435.00	119,021.00	250,110.00	261,621.00	271,416.00	275,340.00	284,208.00	316,105.25	327,540.00
203	R. Hunt/Trap	11,090.00	11,810.00	13,280.00	30,300.00	29,205.00	32,550.00	35,670.00	37,650.00	38,035.65	40,845.00
204	R. Spt. Fish/Hunt	388,728.00	417,348.00	448,560.00	665,406.00	657,420.00	638,088.00	653,642.00	709,302.00	795,652.00	885,170.00
205	R. Fish/Hunt/Trap	93,585.00	113,265.00	144,090.00	227,555.00	228,525.00	233,200.00	248,825.00	265,500.00	299,575.00	330,900.00
206	NR. 10-Day Spt. Fish	217,020.00	242,280.00	267,060.00	349,080.00	428,875.00	517,095.00	532,815.00	587,235.00	702,967.45	720,460.00
207	NR. Sport Fishing	320,180.00	399,060.00	415,540.00	380,480.00	388,010.00	372,330.00	425,220.00	527,640.00	665,010.00	706,988.00
208	NR. Hunting	132,720.00	108,740.00	107,800.00	206,680.00	213,120.00	260,700.00	270,240.00	274,500.00	278,880.00	254,460.00
209	NR. Fish/Hunt	67,200.00	65,600.00	68,440.00	70,670.00	70,830.00	90,180.00	85,770.00	97,020.00	112,950.00	93,702.00
210	NR. Hunt/Trap	4,800.00	5,200.00	7,400.00	10,400.00	13,400.00	10,600.00	12,200.00	17,200.00	14,000.00	9,200.00
211	NR. 1-Day Spt. Fish	----------	----------	----------	55,870.00	74,000.00	81,730.00	85,935.00	109,920.00	134,385.00	377,510.00
212	NR. Mil. Spt. Fish	----------	----------	----------	65,270.00	74,470.00	69,800.00	60,240.00	65,160.00	69,940.00	66,550.00
213	NR. Mil. Small Hunt	----------	----------	----------	10,092.00	12,924.00	11,748.00	11,172.00	13,248.00	12,420.00	11,688.00
214	NR. Mil. Fish/Hunt	----------	----------	----------	21,714.00	20,064.00	19,316.00	18,480.00	24,024.00	27,764.00	23,980.00
217-3B	R. Trap	2,670.00	2,277.00	3,630.00	4,767.00	4,440.00	4,395.00	4,578.00	4,899.00	4,290.00	4,047.00
218	Duplicate License	3,222.00	2,974.00	4,436.00	5,496.00	5,898.00	5,810.00	6,194.00	6,912.00	7,412.00	9,034.00
120	Fish/Fur/Game Farm	500.00	100.00	200.00	100.00	200.00	400.00	600.00	600.00	300.00	100.00
121	R. Fur Dealer	2,720.00	2,420.00	2,320.00	5,320.00	9,450.00	5,250.00	5,550.00	5,650.00	8,400.00	4,050.00
122	NR. Fur Dealer	300.00	400.00	300.00	800.00	1,400.00	1,000.00	2,000.00	1,200.00	1,000.00	800.00
123	R. Taxidermy	2,100.00	1,800.00	2,050.00	3,375.00	4,725.00	2,775.00	3,900.00	5,325.00	6,225.00	4,200.00
124	NR. Taxidermy	----------	300.00	----------	200.00	200.00	400.00	400.00	200.00	400.00	----------
	Reg. & Master Guides	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------
	Ass't. Guides	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------
	Class"A" Ass't. Guides	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------
200	Permit Fees	----------	----------	----------	1,090.00	101,130.00	96,595.00	162,370.00	202,089.00	209,490.00	208,250.00
201-B	R. Blind Spt. Fish	3.00	5.00	3.00	.50	3.25	2.50	1.75	1.00	.25	2.00
205-A	R. 25¢ Hunt/Fish/Trap	1,564.00	1,251.00	1,320.25	1,365.75	1,721.75	2,083.50	2,374.50	2,667.25	2,970.50	3,135.00
229	Guide Fees	----------	----------	----------	----------	----------	----------	7,220.00	4,240.00	2,500.00	2,240.00
230	King Sal./Steel.Perm.	----------	----------	----------	----------	----------	----------	323,670.00	424,190.00	467,730.00	16,712.00
		$	$	$	$	$	$	$	$	$	$
SUBTOTAL		1,639,260.00	1,761,070.00	1,937,895.25	3,129,391.25	3,439,822.00	3,564,190.58	4,063,747.25	4,523,080.25	5,143,315.35	5,138,933.00
215	R. Big Game Tags	----------	----------	----------	89,575.00	94,775.00	90,825.00	99,850.00	115,950.00	129,447.50	167,425.00
216	NR. Big Game Tags	744,950.00	617,025.00	698,075.00	999,945.00	993,640.00	1,290,050.00	1,259,895.00	1,231,735.00	1,158,450.00	1,637,505.00
		$	$	$	$	$	$	$	$	$	$
TOTAL		2,384,210.00	2,378,095.00	2,635,970.25	4,218,911.25	4,528,237.00	4,945,065.58	5,423,492.25	5,870,765.25	6,431,212.85	6,943,863.00

FMI:JOHN YOUNG 271-3114

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*

* DELIVER TO: LIOJNU

*

*

* ORIGINAL

* SENT: 03/08/85 TIME: 09:40

* FROM: LIODLG

* SUBJECT: PUBLIC OPINION MESSAGE

* PRINT DATE: 03/08/85 TIME: 09:40

*

14

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TO: SENATE RESOURCES COMMITTEE, SENATORS STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON, V. FISCHER, HALFORD AND ZHAROFF

HOUSE RESOURCES COMMITTEE, REPRESENTATIVES HERRMANN, SHULTZ, WALLIS, CATO, JENKINS AND MILLER

FROM: GUSTIE KNUTSEN, DILLINGHAM, AK.

RE: SB 144 - REPEALING 25CENT RESIDENT HUNTING, TRAPPING, AND SPORT FISHING LICENSE

F

I BELIEVE YOU SHOULD HAVE A STATEWIDE TELECONFERENCE ON SB 144, AN ACT REPEALING THE 25 CENT RESIDENT HUNTING, TRAPPING, AND SPORT FISHING LICENSE. MANY RURAL ALASKANS, ESPECIALLY THOSE LOW INCOME AND ELDERLY RESIDENTS WOULD BE HURT BY THE PASSAGE OF SB144.

FEB 20 1985

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST
Bill/Resolution No: SB 144
Title: An act repealing the 25 ¢ resident hunt, trap, sport fish license
Sponsor: P. Fischer
Requestor: Senate Resources
Date of Request: 2/12/85

FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected: Revenue Collection and Management
BRU, Program or Subprogram(s) Affected: Public Services Division BRU

EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
	OPERATING						
100	PERSONAL SERVICES	-	-	-	-	-	-
200	TRAVEL	-	3.5	-	-	-	-
300	CONTRACTUAL	-	5.0	-	-	-	-
400	SUPPLIES	-	1.5	-	-	-	-
500	EQUIPMENT	-	-	-	-	-	-
600	LANDS & STRUCTURES	-	-	-	-	-	-
700	GRANTS, CLAIMS	-	-	-	-	-	-
800	MISCELLANEOUS	-	-	-	-	-	-
	TOTAL OPERATING	0	10.0	0	0	0	0
	CAPITAL	-	-	-	-	-	-
	REVENUE Fish & Game Fund	0	87.3	174.6	183.3	192.4	202.0

FUNDING: (Thousands of Dollars)

	GENERAL FUND	0	10.0	0	0	0	0
	FEDERAL FUNDS	-	-	-	-	-	-
	OTHER	-	-	-	-	-	-
	TOTAL	0	10.0	0	0	0	0

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis.

Prepared By: Sally Smith — Phone: 465-2376
Division: Public Services — Date: 2/14/85

Approved by Commissioner: — Date: 2/16/85
Agency: Revenue

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Department of Revenue
Public Services Division

February 14, 1985

SB 144 Analysis

This bill would repeal the 25¢ resident hunting, trapping and sport fishing license.

Proposed Amendment: Fish and Game Licenses are sold on a calendar year basis. Therefore, both the Revenue and Expenditure estimates are based on an effective date of January 1, 1986. If this effective date is not included in the bill, additional expenses would be incurred to reprint and redistribute licenses in the middle of the licensing year; to inform License Officers of the change; and to reprogram the 1985 Fish and Game License computer files.

Estimated Revenues accruing to the Fish and Game Fund are based on the assumption that each licensee currently purchasing a 25¢ license would purchase a license at full cost. Estimated license sales are based on the percentage of each type of resident license class sold in FY 1984. An estimated increase in sales of 5% per year has been assumed.

Estimated Expenditures are based on the following:

200 - Travel		$ 3,500.00
License Officer training sessions will be scheduled in Anchorage, Fairbanks, Kenai Peninsula, Wasilla/Palmer, Juneau, Sitka and Ketchikan. This way we will be able to reach 45% of the total License Officers.		
300 - Contractual		5,000.00
Printing	$ 2,850.00	
Postage	2,150.00	
These costs are for printing and mailing notifications of the repeal of the 25¢ license to License Officers; and for updating, reprinting and distributing the License Officer Instruction Manual.		
400 - Supplies		1,500.00
Covers for Manuals	$ 800.00	
Envelopes	200.00	
Miscellaneous	500.00	
TOTAL ESTIMATED EXPENDITURES		$ 10,000.00

2040F

Introduced: 2/11/85
Referred: Resources and Finance

IN THE SENATE BY P.FISCHER

SENATE BILL NO. 144

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act repealing the 25-cent resident hunting, trapping, and sport fishing license."

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

* Section 1. AS 16.05.340(a)(6) is amended to read:

(6) Resident hunting, trapping, and sport fishing license..... 32

[HOWEVER, THE FEE IS 25 CENTS FOR AN APPLICANT WHO IS THE HEAD OF A FAMILY OR A DEPENDENT MEMBER OF THAT FAMILY, OR WHO IS SOLELY SELF-SUPPORTING UPON PROOF PRESENTED BY THE APPLICANT THAT THE APPLICANT

(A) IS OBTAINING OR HAS OBTAINED ASSISTANCE DURING THE PRECEDING SIX MONTHS UNDER ANY STATE OR FEDERAL WELFARE PROGRAM TO AID THE INDIGENT, OR

(B) HAS AN ANNUAL FAMILY GROSS INCOME OF LESS THAN $5,600 FOR THE YEAR PRECEDING APPLICATION.]

* Sec. 2. AS 16.05.660 is repealed.

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.

James O. Smith
Signature of Camera Operator

11/24/89
Date

02-519 (REV 8/78)

SB

150

3.

DELIVER TO: JPOM

ORIGINAL
SENT: 02/21/85 TIME: 09:05
FROM: LANA TRUJILLO
SUBJECT: POM
PRINT DATE: 02/21/85 TIME: 09:06

TO: SEN. BENNETT, COGHILL, ELIASON, FAHRENKAMP, FAIKS, VIC FISCHER, HALFORD, JOSEPHSON, KELLY, RODEY, STURGULEWSKI, ZHAROFF AND ZIEGLER

REP. CATO, CLOCKSIN, DAVIS, FULLER, GRUENBERG, GRUSSENDORF, HERRMANN, JENKINS, MARTIN, MM MILLER, MW MILLER, PEARCE, PETTYJOHN, PHILLIPS, PIGNALBERI, SHULTZ, SUND, TAYLOR, THOMPSON AND WALLIS

FROM: SHERWIN START, 320 MCCARREY ST., ANCHORAGE, 99504, 337-8988(HM)

RE: SB 150

ALASKA STATE WATERS ARE FAST APPROACHING TOTAL ALLOCATION OF USE. THIS BILL MAKES AN ATTEMPT TO MAKE THE INDIVIDUAL WATER USERS SHOW NEED BY ACTUAL USE OF THEIR APPROPRIATED QUANTITY OF WATER. THIS BILL WILL REQUIRE A CONSIDERABLE INCREASE IN THE DEPT. OF NATURAL RESOURCES WATER USE ENFORCEMENT STAFF.

APR 0 8 1985

Jim + Kay Hansen
Box 246
Nome, Ak.
99762
Ph: 443-1074

April 3, 1985

Mrs. Arliss Sturgulewski
Senator
Pouch V
Juneau Ak.

Mr. Sturgulewski:

First as your constituents we want to thank you for your individual efforts and concern in the past.

Inclosed find information on a problem many of us are <u>very</u> concerned about.

Jim + Kay Hansen.

Jim + Kay Hansen

Ms. Sturgulewski:

Greetings and hope all is well with you in Juneau.

You may already be aware of a situation that threatens to bring the State to a grinding halt! That is right — Alaska's cities, agriculture, fisheries processor and hatcheries, most types of industry, all mining, forestry processors (some of whom have already been closed) and even future Oil development and the support facilities of present oil production will be closed down! In short everyone or entity that uses <u>water</u>.

How can this happen?! Simply through enforcement of Federal and State <u>water</u> <u>regulations</u>.

Most people are not aware of the situation. The regulations however apply to all users.

The basic problem is this:

The Federal clean water Act, 33 U.S.C., required the states to classify their waters within a relatively short period of time. The state of Alaska had made little effort at this previously, therefore decided (under environmental pressure) to simply classify <u>all waters</u> as "Drinking water" pure — the most restrictive. Complaint was made, however, the state said the classification was simply to comply with the short Federal time constraints. Later we can take time to study + reclassify they said. The "Feds", however, changed the procedure allowed for reclassification, CFR 131.12, making it virtually <u>impossible to reclassify</u>!

Thus all of our water is still "drinking water" pure.

this is a noble classification. the problem is, however, that you can not use any water in Alaska for any other purpose but drinking without exceeding the Fed E.P.A. regulatory effluent guidelines of 5 N.T.U. (measurement of Turbidity)

that is right - it is virtually impossible for any users of water to comply with this regulation that is imposed on All water users

the fines are not just the "slap on the wrist" type either — $10000/day and jail sentences for violators! this, coupled with court injunctions, will allow the agencies and even an individual to "shut down" the state. Of course a shut down of this nature is seen as unacceptable to the public at large so it appears an effort is possibly being made to close or curtail one activity at a time -

It appears the present target is the mining activity. Now, if enforcement is carried on against the mining community over turbidity, I believe a class-action law suit would be filed. One of the complaints in this suit would be that they are being unconstitutionally singled out for prosication.

This would compell the agencies to prosicute all users of water for inability to meet the Fed. E.P.A. 5 N.T.U. standard.

Enforcement action on this scale would be out of the question but this would perhaps force a "common-sence" solution.

Now you may say this sounds just like another "dirty water miner" the State + Feds. are trying to clean up. He just doesn't want to put a little money + effort in to compliance.

Unfortunatly this is wrong!

Almost No water users can comply!

The Canadian Government recognizes this scientific fact of reality and therefore does not even have turbidity requirements for mining. Further, they realize that turbidity in itself is not generally harmful and at times even helpful. For instance, scientific studies have shown that most of Alaskas fresh water fish are healthier in a turbid aquatic environ.

Many feel this is a potentially disastrous "catch 22" situation we are in and feel it should be addressed in this session of the legislature.

We urge you to contact other knoledgable users of water and seek possible solutions

May we suggest one <u>possible solution</u> if legal.

Legislativly <u>recind</u> the regulatory action that was taken to classify all waters as "drinking water" and blanket reclassify all waters to a lower category. This would allow reasonable water uses to continue. Re classifying certain waters to a higher standard where needed would then be easy as E.P.A. requirements are readily met when reclassifying in this direction.

I hope you as an individual legislator and as a group can make some progress on this unbelievable bureaucratic screw up! Hopefully you can resolve this matter.

Best of luck in this and your other endevors.

Sincerely,

Jim + Kay Hansen.

DELIVER TO: LTCJ

ORIGINAL
SENT: 01/22/86 TIME: 13:51
FROM: HARRY MANDREGAN
SUBJECT. 1ST EMAIL
PRINT DATE: 01/22/86 TIME: 13:52

TO: BILL IN JNU

FROM: HARRY IN ANC

PARTICIPANT LIST FOR THIS AFTERNOONS TELECONFERENCE ON WATER RIGHTS

1. MIKE FRANK-STATE AGO
2. TOM MEACHAM-AK. WATER BOARD
3. PEG TILESTION

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3300

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

SR 3-8-85 1:40pm

Alaska Department of
NATURAL
RESOURCES
ESTHER WUNNICKE,
COMMISSIONER

Fact Sheet:
RESERVING WATER FOR INSTREAM USE

OCTOBER, 1984

WHAT ARE RESERVATIONS OF WATERS?

A reservation of water is a type of water right. The use of water within a stream, lake, or other surface water body may be reserved to maintain an adequate instream flow or level of water for specific activities, such as fish spawning or a river rafting enterprise. Water can be reserved for one or more permissible uses at a particular point or part of a stream or other waterbody, during a certain period of time. Under Alaska Statute 46.15.145, permissible instream uses include:

- Protection of fish and wildlife habitat, migration and propagation,
- Recreation and park purposes,
- Navigation and transportation purposes, and
- Sanitary and water quality purposes.

A reservation of water for one use may also serve as a reservation for another purpose. For example, a reservation for fish spawning may also benefit recreation.

Like out-of-stream water rights, a reservation of water is a property right. However, it cannot be abandoned, conveyed, transferred, assigned, or converted to another use without the approval of the Department of Natural Resources.

WHO CAN APPLY FOR A RESERVATION OF WATER?

Private individuals or organizations as well as government agencies may apply for a reservation of water for instream use. This is not a required permit, but rather an optional water right. Those who wish to divert, impound, or withdraw water from a surface or ground water source will continue to file for their water rights under Title 46 for obtaining diversionary water rights.

HOW CAN I APPLY FOR A RESERVATION OF WATER

- You can get an Application for Reservation of Water (Form 10-1151) at any Department of Natural Resources, Division of Land and Water Management district office. Your application, however, must be submitted to the district office in the area where your proposed reservation of water will occur.

- Before submitting your application, you should talk with the district office people about the type of work or study needed to quantify the instream water use, and information needed in your application.

- When your application is complete and has been accepted, it will be reviewed to ascertain the need for the reservation of water, impacts on other water right holders, and the public interest. An assessment will be made to determine if water is available for the reservation, and if the hydrologic and technical information in the application is accurate and adequate. Public notice of your application must be given.

- Certificates of reservation, when issued, will be granted to the applicant. Conditions may be placed on certificates.

- Certificates of reservation must be reviewed by the Division of Land and Water Management every ten years, but can be reviewed in less than ten years if changed conditions warrant a review.

WHAT COSTS ARE INVOLVED?

- The Application for Reservation of Water should be accompanied by the appropriate filing fee as set forth in the fee schedule of the Department of Natural Resources.

- You will be required to pay the cost of a legal advertisement to notify the public of your proposed reservation of water.

- If a certificate is issued, you may be required to install and maintain measuring devices, such as stream gages, weirs, or staff gages, and monitor and report on the instream flow or level of water.

- You may also be responsible for additional data collection or analysis during the certificate review period.

WHY SHOULD I APPLY FOR A RESERVATION OF WATER?

You should apply if you want to ensure that the level or flow of water in a stream or lake that you need for your purposes will be available when and where you need it, and will not be appropriated or diverted for another use.

If you have an established instream water right, you have priority use of that water over people who file later for water rights as well as legal standing in case of conflicting uses of water by those without a water right.

WHAT OTHER WATER RESOURCES PERMITS MIGHT BE NEEDED FROM THE DEPARTMENT OF NATURAL RESOURCES?

A permit or certificate of appropriation is required for diverting, impounding, or withdrawing water for use from a water body or ground water source.

A certificate of approval is required if you want to construct or modify a dam ten feet or more in height, or if the storage capacity is 50 acre-feet or more. A separate application form along with a sliding filing fee applies for various size dams as set forth in regulations (11 AAC 93.200).

Further information about reservations of water for instream uses and application forms may be obtained from the following offices:

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT

SOUTHEASTERN REGIONAL OFFICE
400 Willoughby Avenue
Pouch MA
Juneau, Alaska 99811
465-3400

NORTHERN REGIONAL OFFICE
4420 Airport Way
Fairbanks, Alaska 99701
479-2243

SOUTHCENTRAL REGIONAL OFFICE
3601 C Street, 10th Floor
Pouch 7-005
Anchorage, Alaska 99510
276-2653

▲ Mat-Su Area Office
Century Plaza, Suite 202
Pouch 874008
Wasilla, Alaska 99510
376-4595

Western Energy Update

Western Interstate Energy Board/WINB
6500 Stapleton Plaza . 3333 Quebec Street
Denver, Colorado 80207
303/377-9459

Newsletter No. 85-22
December 6, 1985

INSIDE THIS ISSUE:

COAL

Interior Department Releases Management Action Plan for OSM

Last week the Interior Department released an advanced draft of a Management Action Plan (MAP) for the troubled Office of Surface Mining. The MAP is the first significant effort by the Department to develop solutions to the wide range of problems identified by numerous special investigations. Most of the investigations have focused on the agency's failure to deal with the problems of unpaid fines and outstanding violations and abuses of the 2-acre exemptions--conditions which are predominantly found in the east. The rough ideas found in the MAP are largely the product of work by Earle Gjelde, assistant to the secretary, and Jed Christensen, acting OSM director.

State regulatory agencies had their first opportunity to provide the Department with feedback on the MAP this week at meetings held in Albuquerque, NM. Environmental groups and industry are expected to meet with the Department in Washington, D.C. early next week.

In their preliminary review of the MAP, the states found the concept of a management action plan a significant improvement which may provide for the first time a comprehensive indication of the Office of Surface Mining's policies and objectives. Regarding enforcement, the states: supported the concept of decentralizing assessments as a sound method of improving compliance by making imposition of penalties for violations rapid, as compared with the current Washington, D.C. assessment policy; questioned the effectiveness of the "buyer blocking" approach as opposed to current permit denial provisions in SMCRA; and emphasized that the law does not require identical state and federal programs, but rather requires state programs which are as effective as the federal program. Regarding oversight, most states expressed concern that the MAP fails to establish a process to measure the effectiveness of reclamation on the ground, but merely enhances the emphasis on "bean counting," e.g. counting the number of inspections, number of violations, etc. Other states did not object to bean counting, in part because they doubted OSM's ability to develop program effectiveness measures.

In response to the historic long delays and duplicate reviews needed to secure decisions on mine plans on federal lands, the MAP proposes delegating final signoff authority to State BLM Directors. Western Governors have suggested delegating approval authority to OSM field personnel, however, the Department concludes in the MAP that SMCRA prohibits any OSM official from approving mine plans on behalf of the Department. As for Abandoned Mine Lands, the MAP proposes that the secretary's share of AML funds be distributed 50 percent on the basis of a flawed National Abandoned Lands Inventory and 50 percent on the basis of historic coal mining. In addition, $20 million per year would be set aside to be available for matching by states for any AML priorities authorized under SMCRA. As has been the case in other AML issues, there was little agreement among states on the wisdom of such an allocation. There was agreement, however, in favor of the MAP's proposal to delegate greater AML decision authority to field offices.

Regarding management changes, there was support for the MAP objective of decentralizing the highly centralized agency, but significant uncertainty as to what decisions were in fact being proposed to be delegated to the field offices. States stressed the continuing problems with the failure of OSM to make timely decisions on such critical topics as amendments to state programs. The states also questioned the wisdom of the MAP proposal to shift responsibility for Illinois, Indiana and Michigan to the Western Assistant Director. The midwest states suggested that OSM consider the establishment of an Assistant Director for midwest states. The Department is apparently reconsidering the proposed move of those states to the West.

House Interior Committee Chairman Morris Udall (D-AZ) has written Secretary Hodel expressing a number of views on the MAP. Udall asked that there be a comment period of at least 30 days and that the plan include a crosswalk between agency initiatives and the requirements of SMCRA. He said he "would vigorously oppose any proposal, for example, that on-site deference be given to state inspectors where the Federal inspectors believe a violation contrary to the Act exists. In addition, OSM must be ready and willing to institute a Federal program in the unfortunate event that a complete breakdown occurs." Finally, Udall stated that he would like to see a Management Task Force, which was recommended in a committee report earlier this year, be established by January 1.

Based on a Department briefing in October, environmental groups have written the Department supporting a "comprehensive approach to the myriad problems now confronting the Office of Surface Mining," but have taken issue with many of the concepts now contained in the MAP. Environmentalists specifically take issue with proposals for changes to oversight, inspection and enforcement by OSM, bonding, and remining incentives. "In short, we have fundamental problems with your MAP proposal...Your Plan would also reduce federal enforcement at the same time a bipartisan effort in Congress is strengthening the federal inspection force to deal with problems created by state failures. The MAP is not only at variance with reality; it is in flat conflict with the Act. Should it go forward, it would face certain challenge, and we believe defeat, in the Courts...Your proposed course of action would lead to confrontation and to years of instability in a program that cries out for stability."

The Department is seeking comments on the advanced draft by December 10 so that such comments can be reflected in the draft MAP to be published in early January. According to the MAP: "We too are concerned about the limited time for

this review but feel the draft should get out to the many other people who need to review it." The MAP is designed to be an ongoing document with regular updates beginning in June 1986.

Coal Notes...

The BLM is conducting a study on whether **railroad coal** affiliates should be allowed to lease federal coal and, if so, how it might be done. A BLM official said there is no target date set for completing the report. Steve Griles, assistant secretary-designate for lands and minerals management, recently announced the Interior Department supports a system of cooperative leasing where a railroad affiliate would offer its checkerboard coal at a lease sale along with federal coal. All of the coal would be offered together and would be awarded to the highest bidder. ("Inside Energy/with Federal Lands," Dec. 2)

Mid-Continent Resources has laid off 118 of 538 employees at its three **coal mines in Colorado**, due to lack of sales. The three mines near Glenwood Springs produce metallurgical coal used to make steel. Mid-Continent's major customer is U.S Steel in Provo, Utah, which is the only raw steel producer left in the West. The firm also sells to Lone Star Steel in Texas and Korea, but because of the distance to a port, potential international markets are limited. The company is continuing to modernize the mine to make the mining operations more efficient. ("Rocky Mountain News," Dec. 3)

The long term uncertainty about oil prices suggests **continued growth in the use of coal** according to Chase Manhattan Bank's Quarterly review "Sensitivity of World Coal Markets to Falling Oil Prices." The short-term outlook favors oil, but only a "very dramatic sustained decrease in the price of oil could challenge" the conclusion that coal use will continue to increase, wrote Vincent J. Calarco, Jr., Chase's vice president and coal economist. Coal has an advantage over oil for new power plants planned for the early 1990s. To eliminate that advantage, real crude oil prices in the U.S. would have to fall below $18.03 per barrel with no real increase in coal prices or fall below $19.25 if coal prices increase by one percent, according to Calarco. "In general, barring a collapse of [the Organization of Petroleum Exporting Countries'] production-sharing system and a subsequent price war, existing thermal coal markets are relatively secure," the review said. ("BNA's Energy Report," Nov. 14)

Seven eastern states and four environmental groups have sued the Environmental Protection Agency (EPA) for failing to set new limits on **smokestack emissions** that return to the ground as acid rain. Environmentalists hope the suit, filed in U.S. District Court, will spur the agency to action after years of study and litigation, representatives of the plaintiffs said. The suit claimed EPA failed to review and revise its standards for emissions of sulfur oxides every five years as required by the Clean Air Act of 1977. The lawsuit charged that the lack of stricter limits on emissions from coal-burning power plants, ore smelters and other industries in the Midwest is damaging health, property and the environment. "As a nation, we have been pregnant with the problem of acid rain for far too long," said FredericD. Krupp, director of the Environmental Defense Fund. The National Resources Defense Council, the National Parks and Conservation Association, and the Sierra Club also took part in the suit. ("Denver Post," Dec. 6)

NUCLEAR ENERGY

House Interior Marks Up Price-Anderson Nuclear Liability Bill

The House Interior Subcommittee on Energy and Environment has started marking up Rep. Morris Udall's (D-AZ) bill to reauthorize the Price-Anderson Act governing nuclear liability. Udall had proposed a $10 billion liability ceiling, but the Subcommittee approved a $2 billion ceiling proposed by Rep. Austin Murphy (D-PA), although Udall said that the fight would continue at the Committee level. The Subcommittee also voted to delete a provision which would have allowed utilities not involved in an incident to sue the responsible utility for reimbursement of monies paid under the utilities' retrospective premium program. The Subcommittee rejected an amendment by Rep. Manuel Lujan (R-NM) to extend the Price-Anderson Act by 20 years, rather than 10 years.

The Subcommittee is scheduled to meet this week to discuss other liability provisions, including application of the Price-Anderson act to high-level radioactive waste activities. Several representatives are expected to offer amendments. Rep. Barbara Vucanovich (R-NV) has a bill to impose unlimited liability on the federal government for accidents involving the nuclear waste program, with a $5 billion contribution from the Nuclear Waste Fund (which is financed by nuclear utility ratepayers). Rep. Joe Barton (R-TX) may amend the Vucanovich proposal by limiting liability for waste accidents to the same levels provided for incidents involving commercial reactors, with the U.S. Treasury as the source of the funds. Rep. Jerry Huckaby (D-LA) would impose federal government liability only for defense or DOE wastes; commercial waste incidents would be compensated for under the Price-Anderson Act.

Amendments are also expected in other areas. Rep. Sam Gejdenson (D-CT) has prepared amendments to: increase the statute of limitations to five years from the time an injury and its cause are discovered; extend Price-Anderson coverage to acts of theft and sabotage; and prohibit the use of required insurance and utility liability funds to pay legal fees and investigative costs. Rep. John Seiberling (D-OH) is considering an amendment to raise the first layer of coverage (the involved utility's insurance) from $160 million to $1 billion. Seiberling may also introduce a change in the definition of an "extraordinary nuclear occurrence" by tying it to a release of a specified amount of radiation, rather than leaving the determination to the Nuclear Regulatory Commission's discretion. ("Inside Energy/with Federal Lands," Nov. 25 & Dec. 2; "EESI Weekly Bulletin," Dec. 2; "EEI Washington Letter," Nov. 22)

OTA Urges DOE to Develop Consensus on MRS Nuclear Storage Facility

The Office of Technology Assessment urged the Department of Energy to work towards developing a strong consensus on DOE's proposed Monitored Retrievable Storage facility (MRS) for high-level radioactive waste. DOE released the draft environmental assessment for the project, but the final proposal to Congress is not due until January. DOE must work with all affected groups, including candidate repository states (such as Washington, Nevada, and Utah), transportation corridor states, utilities, environmental groups, and Tennessee (candidate MRS host) to develop a "core compromise" on the facility, OTA said. OTA warned that congressional MRS authorization on a close vote could lead to new attacks each year, as was the case with the Clinch River Breeder Reactor, which was eventually cancelled by Congress in 1983. ("Inside Energy/with Federal Lands," Nov. 25)

Nuclear Notes...

Prohibiting the Department of Energy from **enriching foreign uranium for domestic use** would only increase prices of uranium, enrichment, and electricity, without providing any relief to the shut-down domestic uranium mines and mills, according to 32 utilities. The utilities asked the U.S. District Court in Colorado to rule against the uranium producers on count 1 of their complaint in Western Nuclear v. Huffman requesting the court to enjoin DOE's foreign uranium enrichment for domestic use. Earlier this year, the court sided with the producers on a separate count to hold DOE's enrichment contracts null and void. ("Inside Energy/with Federal Lands," Dec. 2)

California's San Onofre Nuclear Plant Unit 1 was shut down for inspection and repairs following an electrical problem in the non-nuclear portion of the plant. A leak of non-radioactive water occurred following the shut-down, but no radiation was released in the incident.

Portland General Electric Co. and the Oregon Public Utility Commission have reached a court-approved settlement with Oregon consumers and environmentalists over the utility's **investment in the abandoned** Pebble Springs and Skagit/Hanford **nuclear plants.** At issue was whether the utility had unlawfully included part of the costs of the incomplete plants in its rate base. The consumer and environmental groups agreed to drop their lawsuits. In exchange, Portland General agreed to: 1) dismiss its appeal of the PUC's denial of cost recovery on the abandoned plants; 2) refund $14 million of PUC-approved rate increases; 3) donate $500,000 to the Sierra Club Foundation as an "advisory grant" which can be tapped by the consumer groups for activities not contrary to the utility's interests; and 4) pay the consumer groups' attorney fees. ("BNA's Energy Report," Nov. 14)

Colorado's Office of Consumer Counsel asked the Public Utilities Commission to **remove the Fort St. Vrain nuclear plant from the utility's rate base.** The country's only high temperature, gas-cooled reactor has operated for only 10 days in the last 21 months, and has not produced electricity since June 1984. The consumer office asked that $46 million annually be removed from the rate base and said that Public Service Co. should purchase any useful electricity the plant produces in the future and recover its purchase price through the quarterly fuel cost adjustments, the consumer office said. ("BNA's Energy Report," Nov. 14)

The House Energy Subcommittee on Energy Conservation and Power has requested the Office of Management and Budget's (OMB's) opinion regarding how much money the Department of Energy's **uranium enrichment program** owes the U.S. Treasury for its wasted investment in the gas centrifuge enrichment plant. The Subcommittee sent OMB a lengthy set of questions to be answered at the Subcommittee's hearing next week. There is widespread disagreement regarding the size of DOE's debt, with estimates ranging from $350 million to $6 billion. ("Inside Energy/with Federal Lands," Dec. 2)

The American Nuclear Energy Council adopted a resolution supporting the Department of Energy's proposed concept of a **Monitored Retrievable Storage facility (MRS)** as an integral part of the high-level radioactive waste disposal program. The Council also urged DOE to establish a public information program for the facility, and to address concerns of the host state and community regarding financial assistance and citizen involvement. ("Nuclear Waste News," Nov. 28)

The Senate Environment and Public Works' Subcommittee on Nuclear Regulation cancelled its November 22 **markup on low-level radioactive waste compact legislation.** However, this move will not delay the bill, which will move directly to full Committee markup this week. ("Radioactive Exchange," Nov. 22)

The first phase of an audit has been completed on the **Palo Verde Nuclear Power Plant.** The audit, agreed to by the utility commissions in Arizona, California, New Mexico, and Texas, was prompted by a 210% cost overrun on the plant, and seeks to find costs which were not reasonably incurred, and thus, should not be included in the rate base. The first phase identified as areas for more in-depth study those project elements which are questionable and involve large sums of money. ("Arizona Corporation Commission News," Nov. 27)

UTILITIES

Utility Notes...

Two-thirds of state public utility commissions do not require **least-cost planning** of their utilities and they also "lack adequate information and analytical planning tools," acording to a survey conducted by Rep. Claudine Schneider's office. The results of the $1 million survey were released on November 14, as the first step in a three year program to transfer the findings of federal research on efficiency and least-cost alternatives to state commissions. The campaign has the backing of the National Association of Regulatory Utility Commissioners. "If we were as efficent as European nations we would free upwards of $200 billion per year for non-energy business expansion, job creation, and community economic development," Schneider (R-RI) said, citing studies by Amory Lovins. Copies of the report are available from Schneider's office; telephone (202) 225-2735. ("BNA's Energy Report," Nov. 21)

The Montana Public Service Commission has approved a plan for Montana Power to sell its share of the **Colstrip 4 power plant** and lease back power from the plant, the utility said. Under the plan, Montana Power will sell its 30 percent share of the 700 megawatt plant for $266 million to a partnership, using most of the proceeds to retire long-term debt. The partnership is made up of units of Shell Oil Co., General Electric Co. and Drexel Burnham Lambert Inc. The remaining 70 percent of Colstrip is owned by Puget Sound Power & Light, Washington Water Power Co., Portland General Electric Co. and Pacific-Corp. Montana Power will lease back electricity for about $29 million a year over a 25-year period. It plans to sell the power to other utilities in the region, noting it will not need the power until the early 1990s. Colstrip is scheduled to begin producing power next April. ("Wall Street Journal," Dec. 3)

Portland General Electric has announced a 28-year contract to sell 75 megawatts of electricity annually to San Diego Gas & Electric Co. The agreement is the first **long-term sale of firm power** from the Northwest to a California utility. Northwest utilities have been selling power on a short-term basis to California utilities for some time. The sale will likely be viewed "very cautiously" by the Northwest Power Council, according to Don Goddard, a member of the regional planning body. The council is concerned that long-term exports of firm power could turn the Northwest into an "energy farm for California," he said. There is also concern that the current electricity surplus in the region could disappear if power is exported. Portland General is projecting a power surplus until the late 1990s. The power may come from the company's little-used Boardman

coal plant or from power purchased from Bonneville Power Administration. ("BNA's Energy Report," Nov. 14)

The **Bonneville Power Administration** has published its "Draft 1986 Resource Strategy" which is a study of how the agency might meet its future power needs and addresses the demand for power predicted in BPA's 20-year forecast. BPA's proposed blueprint for building a secure electric energy future for the Pacific Northwest includes preservation of two partially completed nuclear projects, minimal "capability building" in the area of generating resources and a moderate conservation effort involving all user groups. The "Preferred Resource Strategy" recommends continued preservation of mothballed WPPSS nuclear plants, WNP-1 and -3. BPA's resource planning is guided by the Northwest Power Planning Council's Power Plan which recommends that BPA acquire options to buy hydro generating resources and develop the capability to acquire conservation savings through incentive programs when needed. BPA's Resource Strategy substantially reflects the Council's Draft Power Plan and preliminary Council decisions made since its Draft Plan was established. "We are seeking public comment on the draft strategy. This is an excellent opportunity for people to get involved in decisions on their energy future," said BPA Administrator Peter T. Johnson. After soliciting public comment, BPA will develop its final "1986 Resource Strategy" scheduled for release in February 1986. For further information on the 1986 Resource Strategy, public meetings, or how to acquire the documents, contact the BPA Public Involvement Office, P.O. Box 12999, Portland, OR 97212.

OIL and GAS

FERC's Block Billing Proposal Attacked

Industrial users and many users of natural gas are attacking the Federal Energy Regulatory Commisssion's proposed block billing for natural gas. The comments were in response to FERC's proposal to change the way in which prices paid at the wellhead for low-cost old (still regulated) gas and higher-cost new gas are melded together before the gas reaches the end user. Interstate pipelines have traditionally averaged their low and high acquisition costs for gas purchases. This gave the pipeline greater leverage in its purchasing practices, especially when demand was greater than supply, since it could pay above market prices for newer gas then average it with lower priced old gas. However, it also led to charges that some pipelines were imprudent in their purchasing policies. FERC's proposal, however, would have pipelines bill separately for old and new gas, preserving the benefits of lower-priced gas for old customers. The commission issued a revised block bill proposal on October 9 when it issued the final rule dealing with the first three parts of its transportation rule. The Department of Energy also criticized FERC's proposal saying it would penalize new users of natural gas.

Industrial users said that the proposal is fundamentally unworkable and discriminatory. Industrial groups representing over 200 large and small manufacturers stated, "[t]he revised proposal is still fundamentally flawed, and we therefore strongly urge the commission to abandon block billing." The groups are the American Iron and Steel Institute, the Association of Business Advocating Tariff Equity, the Chemical Manufacturers Association, the Georgia Industrial Group, and the Process Gas Consumers Group. The National Association of Manufacturers (NAM), which represents 13,000 corporations, also expressed its strong opposition to block billing.

Most producers also oppose the block billing proposal, according to Nicholas J. Bush, president of the Natural Gas Supply Association (NGSA). In testimony before the House Energy Subcommittee on Fossil and Synthetic Fuels, Bush said, "[i]t will not serve the public interest and will merely push the existing pricing distortions further down the marketing chain.... The right to so-called old gas, with its regulated prices, is reserved to a select and arbitrary group of consumers. Furthermore, NGSA believes block billing would significantly harm exploration and development of new gas supplies."

The Department of Energy claimed that FERC's analysis of the effects of block billing is "incomplete and flawed." DOE said the proposal would: raise consumer gas prices by about 18 cents per thousand cubic feet in the first year; reduce total gas consumption and production by 450 billion cubic feet in the first year and, from 1985 to 1995, total domestic production would be 3.3 trillion cubilc feet less than under current regulations; reduce domestic producers gas revenue by $3.4 billion in the first year and, between 1985 and 1995, by $20 billion in real terms; and reduce the revenues of interstate pipelines by $540 million to $590 million in the first year and, between 1985 and 1995, by $3.1 to $3.5 billion in real terms. DOE said block billing would create three major problems. For one, since it would increase marginal prices to consumers and cause U.S. gas consumption to decline, it would cause fixed charges to be allocated over smaller volumes, exacerbate the current take-or-pay problems, and seriously harm gas producers. "Block billing would also shift the old gas cushion from interstate pipelines to their customers, primarily local distribution companies,thereby reducing incentives for the distribution companies to act in an efficient manner," DOE told FERC. "Finally, block billing is an esentially arbitrary allocation of old gas entitlements to historical users of natural gas and, as such, it would make more difficult the start-up of new companies dependent on natural gas fuel or feed-stocks." DOE said FERC should abandon its billing concept and raise the prices of old gas to market levels. In this regard, DOE is proposing a rule to achieve the latter. ("BNA's Energy Report,"Nov. 21)

Oil and Gas Notes...

A compromise to establish negotiations to settle the dispute over **California offshore leasing** is expected to be approved by the House Rules Committee. The proposal, formulated principally by Rep. Ralph Regula (R-OH), calls for periodic negotiations between a congressional team, made up of six Californians plus other members serving on committees with jurisdiction over leasing, and Interior Secretary Donald Hodel. The proposal reportedly has been accepted by Rep. Leon Panetta (D-CA), leader of those congressmen trying to reimpose a moratorium on California OCS leasing since talks broke down with Sec. Hodel. The oil and gas industry, however, is likely to oppose such an approach. An industry source said that, while not opposed to a negotiated settlement of the dispute, the majority of companies might be opposed to a "special process" operating outside the normal public participation procedures of the federal offshore leasing law. ("Oil Daily," Dec. 4)

Another report attacks the Interior Department's **oil and gas lottery leasing** procedures. A report prepared by Keplinger Technology Consultants, Inc. found that BLM employees are hopelessly behind in determining the energy potential on certain federal lands and the agency is short on qualified personnel to make those resource assesments. The report echos the findings of the House Appropriations Committee investigations staff which critizied Interior's performance in determining the likely location of oil and gas reserves. Mistakes in determining

locations of reserves or "known geologic structures" (KGS) can lead to the loss of federal revenue. Tracts with known oil and gas potential must be offered competively to maximize the government's return. Other tracts are offered through the non-competitive simultaneous leasing system, or lottery. Congressional critics of the lottery have charged that it is hopelessly flawed and should be discarded. A House lottery leasing reform bill is expected to be offered by Rep. Morris Udall (D-AZ), perhaps before Christmas. ("Inside Energy/with Federal Lands," Dec. 2)

DOE is developing legislative options for **deregulation of natural gas** and expects to send them to President Reagan shortly. A senior DOE official said that Energy Secretary John Herrington expects "that we will be able to get a decision by Christmas." DOE recently decided that drafting an Administration bill is preferable to endorsing any of several gas bills already pending in Congress. ("Inside Energy/with Federal Lands," Nov.25)

Natural gas prices have fallen since FERC's new transportation rule took effect one month ago. As producers have found it increasingly difficult to move supplies to market, spot prices have plunged below $2 per thousand cubic feet in California and Texas. ("Oil Daily," Dec. 2)

The Oklahoma Independent Petroleum Association has asked U.S. Attorney General Edwin Meese to investigate **possible antitrust violations** by interstate pipelines that have elected not to participate in FERC's new natural gas transportation program. In its letter OIPA said the pipelines' decision "is devastating to Oklahoma gas producers ..." ("BNA's Energy Report," Nov. 14)

The Minerals Management Service has changed the requirement on length of time an **OCS bid** may be reviewed before it is considered rejected. The agency currently has 90 days to accept a bid on an OCS lease before it is considered rejected, but MMS said that requirement is too inflexible when the offered leases are "in an area subject to extensive defense-related activities that may be or may become incompatible with mineral exploration/development activities." MMS has amended the rule to permit the Interior secretary to "determine how long the authorized officer may consider the bid before it is accepted or rejected." The determination would appear in the final sale notice. ("Inside Energy/with Federal Lands," Nov. 25)

Net **imports of crude** oil in October were down 21 percent from a year ago, DOE said. Net imports of crude oil, including SPR oil, and petroleum products together averaged 4.1 million barrels per day. Total petroleum products supplied averaged 15.6 million bpd, about the same as a year ago. Stocks of crude oil were down about 9 percent from a year ago. U.S. refineries operated at 79.5 percent of capacity during the four weeks ending November 1.

DOE received 32 bids from 17 companies in its **test sale** of 1.1 million barrels of crude oil from the **Strategic Petroleum Reserve.** The bids ranged from $26.12 per barrel for sour (or high sulfur) crude oil to $31.25/barrel for sweet (or low surlfur) crude. Minimum acceptable bids for the four different grades of oil offered ranged from $26.2006 to $28.4596 per barrel. The minimum bid levels were pegged at 90 percent of the oil's market value on the New York Mercantile Exchange for the last 11 trading days prior to closing the bids. ("Oil Daily," Nov. 27; "Inside Energy/with Federal Lands," Dec. 2)

The oil and gas industry is attacking the Interior Department's proposal to **raise the bonding rates.** The proposal is intended to make sure bond amounts cover restoration costs of leased federal properties that are developed for oil, gas and geothermal resources. The twelve types of bonds now used would be streamlined to four and their dollar amounts increased. Industry does not consider consolidating the bonds a problem, but raising the liability limits is. Industry claims that because of the slump in oil and gas activities only the larger, major oil companies would qualify for the higher bonds, not the smaller independent companies that do most of the drilling. ("Inside Energy/with Federal Lands," Dec. 2)

The Process Gas Consumers Group, an association of industrial gas consumers, has suggested six strategies that state and federal regulators could adopt to **promote gas supply competition.** According to a phamplet put out by the group, the six strategies are: promotion of competition at all levels -- wellhead, pipeline, and distributor; continued regulatory oversight of pipelines and distributors sheltered by considerable monopoly power; effective incentives for efficient operation and good business practices by pipelines and distributors; equal access to gas supplies for all potential purchasers and obligatory non-discriminatory transport for all gas; rates, including transportation rates, based on the cost of service at both pipeline and retail levels; and curtailments of sales and service based on end use. ("BNA's Energy Report," Nov. 14)

The **New Mexico Taxation** and Revenue Department has revised the property tax regulation implementing the statutory valuation method to be used in assessing some oil and gas facilities. The revised regulations deal with pipelines, tanks, sales meters, and plants used in processing, gathering, transmission, storage, measurement or distribution of oil, natural gas, carbon dioxide or liquid hydrocarbons.

SYNTHETIC FUELS

Senate Committee Votes to Cut Funds for SFC

The Senate Appropriations Committee has voted to cut the SFC's remaining funds in half as part of the omnibus spending bill approved by the committee. The spending bill, or continuing resolution, will provide funds for agencies that have not had regular appropriations bills passed by Congress. The committee cut about $3 billion from the SFC's funding leaving it with about $3.6 billion to try to salvage the program.

Meanwhile, in a letter to Senate Energy Committee Chairman James McClure (R-ID), the Reagan Administration said that it is now up to Congress to "settle the matter" of funding for the Synthetic Fuels Corp. The message effectively dissolves the 1984 agreement between the Administration and Congress which allowed the SFC to continue operating, although at a lower funding level. It also strengthens the hand of Energy Secretary John Herrington and others who object to any more financial aid provided by the SFC. The letter was signed by M.B. Oglesby Jr., assistant to the president for legislative affairs. It was in reply to a letter Sen. McClure had written to the President in October asking if the compromise reached in late 1984 is still valid. A Senate vote on the SFC is expected soon when the Senate again takes up the Interior appropriations bill for FY-86. The letter did not surprise SFC Vice Chairman Tom Corcoran. "I think it's what we've suspected to be the case for some time," he said. He noted though,

that even if SFC funding is rescinded in the Interior bill, the President is likely to veto the bill because it exceeds the FY-86 budget target. ("Wall Street Journal," Dec. 6; "Inside Energy/with Federal Lands," Dec. 2)

Synthetic Fuels Notes...

On November 19, The Synthtic Fuels Corp. took a series of actions to resolve the status of all **projects pending before the SFC.** In its consideration of the remaining Third General Solicitation projects in the West, the SFC Board of Directors set a December 13 deadline for the Paraho-Ute project in Utah to submit additional information on a proposed scaled-down project producing 4,500 barrels of shale oil per day. The board received a briefing on the status of the Seep Ridge project (Utah) and directed the staff to resolve all outstanding issues with regard to the project by the next board meeting. The board was also briefed on two proposals for down-sizing the Cathedral Bluffs oil shale project in Colorado. For western projects in the SFC's Fourth General Solicitation, the board directed that negotiations on key financial terms be completed for the Utah Methanol project by January 31, 1986. Finally, for projects in the Corporation's Tar Sands Solicitation, the staff reported that the PR Springs and Sunnyside projects in Utah appear to meet the qualification criteria of the solicitation and are relatively equal when compared against the solicitation's ranking criteria.

Occidental Oil Shale Inc. has now filed two funding proposals with the SFC for "down-sized" developments. Both proposals call for using Occidentals modified in-situ method of retorting shale. ("Rocky Mountain News," Dec. 6)

The **Great Plains coal gasification** plant is in danger of slipping into the red soon as a result of a second pipeline refusing to pay the contract price for the gas. Tennessee Gas Pipeline Co. recently joined Natural Gas Pipeline Co. in refusing to pay the higher price. In light of the former sponsors' actions, DOE officials last week presented Energy Secretary John Herrington with options for continuing operation of the plant, an official said. None of the options call for shutting down the plant soon, the official added. That will not be done as long as litigation over the validity of the gas contracts ensues, he said. ANG Coal Gasification Co. which runs the plant for DOE, is exploring ways of diversifying the coal gasification operation to increase its revenues. ANG is studying two options: developing and marketing additional byproducts and/or reconfiguring the plant to produce other liquid products. ("Inside Energy/with Federal Lands," Nov. 25)

PUBLIC LANDS

Judge Supports Federal Reserve Water Rights in Wilderness Areas

A U.S. District Court judge in Colorado has ruled that "federal reserve water rights do exist" in 24 wilderness areas in Colorado that are in national forests. Under the ruling, potential water projects to divert water to cities could not be built upstream from a wilderness area since that would rob wilderness areas of water and would deprive this and future generations of Americans "the enduring resources of the wilderness," Judge John L. Kane, Jr. wrote. The Sierra Club had filed suit asking that the federal government be forced to assert water rights for wilderness areas in Colorado Water Court. District Court Judge John Kane agreed with the Sierra Club that when Congress passed the 1964 Wilderness Act, it intended to create a federal reserve water right to protect the pristine nature of lands designated as wilderness areas.

In his decision, Judge Kane said that federal officials were not required by law to file for water rights, though they could have done so to protect the rights. But he noted he was dismayed at the U.S. Forest Service's "benign neglect of this issue of federal reserved water rights" and he called for federal officials to present a plan to "comply with their statutory duty to protect wilderness water resources" to him by April 1.

The lawsuit was opposed by the state, the city of Denver, the Colorado Water Congress, a state association of farm, industrial and municipal water users, and the Mountain States Legal Foundation. It appears likely the judge's decision will be appealed. Gregg Hobbs, attorney for the Water Congress said, that since the decision is the first of its kind, "we ought to see what the appellate courts think about the law." He labeled the decision far-reaching and added "Congress is going to have to look at its implications in designating additional wilderness in Colorado. The wilderness areas could interfere with future development that might be needed in the state."

Sen. William Armstrong (R-CO) said that he and other western congressmen intend to stall the designation of any new western wilderness areas unless they can overturn through legislation the judge's ruling. Armstrong said he is confident that no more Colorado wilderness areas will be created as long as the ruling stands. Sen. Malcolm Wallop (R-WY), chairman of the Senate committee with jurisdiction over wilderness areas has said that he intends to hold up wilderness designation for more than 20 million acres of western lands under study by the Bureau of Land Management until the water rights issue is settled. Other congressmen, however, called for negotiations between environmentalists and water providers to resolve the matter. ("Denver Post," Nov. 27; "Rocky Mountain News," Dec. 6)

Public Lands Notes...

A federal court in Washington, D.C. temporarily enjoined the Department of the Interior from carrying out activities to open up over 170 million acres of federal lands, mostly in the West, to **mining and mineral exploration and other development.** Environmental groups had sued the Interior Department over its proposed activities, saying that required land use plans had not been prepared for the lands. ("Wall Street Journal," Dec. 5)

CONSERVATION AND RENEWABLE RESOURCES

Renewable Resources Notes..

Planning has begun for the American Solar Energy Society's 11th National **Passive Solar Conference** to be held this summer. The conference will be held on June 8 through 14, 1986 in Boulder, CO. ASES has issued a call for papers and is especially interested in papers dealing with the government role in solar energy development. People interested in submitting a paper should submit an abstract to the ASES office before January 15. For more information contact the ASES office at (303) 443-3130 or call Pamm McFadden at (303) 443-4308.

With momentum still behind them, the Solar Energy Industries Association is attempting to get favorable clarification in the Committee report on the Ways and Means tax reform package. Recently the committee voted to extend the **solar tax credits** at reduced rates over a three year period. SEIA wants to make it clear that the extension includes photovoltaics. Moreover, it wants the report to

reflect a different interpretation of eligibility than the IRS interpretation earlier this year for certain hot water tanks. IRS ruled that some hot water tanks used in solar energy applications that had backup electrical or gas heating elements were dual-purpose tanks and thus were ineligible for solar credits. The bill would require collectors to be certified by the Solar Rating and Certification Corporation, but SEIA wants to make it clear that consumers would have until December 31, 1986 to obtain certification. SRCC estimates that less than 30 percent of the collectors sold today are uncertified and that the percentage will drop to 5 percent once the provision is in place. ("Solar Energy Intelligence Report," Nov. 25)

With less than 25 days left until the **energy tax credits** expire, the Solar Lobby is working on all the angles to see that the credits remain available. Though the Ways and Means Committee has passed the tax reform bill, the House strategy seems to be to wait so that the Senate only has time for a straight up or down vote and then adjourn. The Senate would, therefore, not be able to seek a conference to iron out the differences between that bill and a measure of its own. The House is likely to send a quick "clean-up" bill that would cover only those elements of the 16 tax measures expiring this year that have already become part of the larger tax reform package. The Committee's bill does not include wind energy or residential conservation. To counter that problem, the lobby has been working with Senator Mark Hatfield (R-OR) who has encouraged and supported solar energy and together they are looking for a member of the Finance Committee to offer a bill providing a general extension of all the credits. But, Finance Committee Chairman Bob Packwood, a fellow Oregon Republican has said that he would limit the extension to the items in the Ways and Means bill. An additional effort seeks to have the Treasury Department not enforce the expiration date of the credits until all the voting is done early next year. At that time the credits could be extended retroactively. ("Solar Energy Intelligence Report," Dec. 2)

Sales of fuel ethanol are expected to show another big gain this year. Early predictions had been somewhat less optimistic than the latest forecasts which predict sales growth near 34 percent. This would bring the two-year growth to 77 percent. Total volume is expected to hit 7.59 billion gallons of ethanol blend, or 7 percent of the total gasoline market. Sixteen states have sales volumes in excess of 10 percent. WIEB states in this group include Nebraska (32.16%), Colorado (17.25%) and New Mexico (13.62%). Paradoxically, some 88 small-scale farm ethanol plants built during the late 1970s and early 1980s have been shuttered, yet the capacity of American ethanol refiners continues to grow. Capacity of American refiners will jump to 625 million gallons from 430 million gallons last year. The estimates were made by the consulting firm of Information Resources Inc., of Washington D.C. ("Solar Energy Intelligence Report," Nov. 25)

House efforts to reform **hydroelectric licensing** legislation began in earnest this month with a markup session in the House Energy Subcommittee on Energy Conservation and Power. According to subcommittee Chairman Markey (D-MA), a majority of the members have already agreed upon: elimination of municipal preference; greater protection of fish and wildlife; and fair compensation for those utilities which lose a facility to a new licensee. Issues still in dispute include: grandfathering of existing cases; whether the bill should include an economic impacts test; and whether the bill should include some form of antitrust scrutiny. The grandfathering issue would let the courts decide currently pending licensing proceedings, rather than having the new, non-preference policy apply. Rep. Markey, however, favors a position whereby investor-owned utilities would compensate municipals for their legal fees and for "the benefits these challengers

would have gained under the old law." Another unresolved issue is wheeling. Rep. Markey remarked, "[i]t has been suggested that the most meaningful way to address teh perceived imbalance caused by the elimination of municipal preference in relicensing would be to increase the ability of public utilities to obtain access to adequate transmission." Markey announced that his committee, along with help from the utilities would undertake a study of the issue. Also mentioned at the hearing was the possible elimination of PURPA benefits for new small hydroelectric projects. ("EEI Washington Letter," Nov. 22)

Rep. Edward Markey would like to see a bill reforming the **Commercial and Apartment Conservation Service** considered and approved by his subcommittee before the end of the year. He is currently negotiating with Rep. Ralph Hall (D-TX) a panel member and a critic of CACS over changes that would address the concerns of natural-gas and electric utilities without compromising the program's basic purpose. Although DOE has implemented a standby federal program for use in states without their own plans, it is reluctant to issue orders requiring utilities to implement CACS while the issue is pending before congress. The Senate has already approved a bill to repeal CACS. The Senate bill also includes reforms in a related program for homeowners, the Residential Conservation Service. Only about ten states have proposed plans for implementing CACS. Utilities having to comply with the federal plan would not have the kind of flexibility offered in most state plans. ("Inside Energy/with Federal Lands," Dec. 2)

A new national directory of **energy software for microcomputers** has been published by the Bureau of Governmental Research and Service of the University of Oregon. The directory annotates more than 100 software packages. Each listing includes a description of the software, hardware requirements, price, contact, and whether the software is proprietary or copy-protected. The information on each package was reviewed and approved by the vendors themselves. For more information, or to order copies at $15.00 each, contact: Bureau of Governmental Research and Service, University of Oregon, P.O. Box 3177, Eugene, OR 97403.

For Further Information Contact: Lori Friel
Douglas Larson
David Lewis
Judy Sandusky
Alison Wilson, Editor

APPROACHING COMMENT DEADLINES ON KEY PROPOSED RULES

	Comment Deadline	Federal Register Reference
Proposed amendments to special rules applicable to Surface Coal Mining Hearings and Appeals-OHA	12/16/85	50 FR 47237 11/15/85
Notice of application to amend authorization to import natural gas from Canada-ERA	12/16/85	50 FR 47250 11/15/85
Availability of the final EIR/EIS for the Pacific Texas Crude Oil Pipeline to CA-BLM	12/23/85	50 FR 48269 11/22/85

New Federal Regulations and Notices

12/6/85

COAL	Status	Federal Register Reference
Final rule regarding approval of amendments to the Colorado Permanent Program under the Surface Mining Control and Reclamation Act of 1977-OSM	Effective 11/15/85	50 FR 47215 11/15/85
Final rule regarding petitions for award of costs and expenses under the Surface Mining Control and Reclamation Act of 1977-OHA	Effective 12/16/85	50 FR 47222 11/15/85
Notice of public comment period and opportunity for public hearing regarding proposed modifications to the Utah Permanent Regulatory Program-OSM	Comments by 12/16/85 Hearing 12/10/85	50 FR 47233 11/15/85
Proposed amendments to special rules applicable to Surface Coal Mining Hearings and Appeals-OHA	Comments by 12/16/85	50 FR 47237 11/15/85
Availability of EIS regarding petition to designate certain Federal lands in the Red Rim area of Wyoming as unsuitable for Surface Coal Mining operations-OSM	Effective 11/26/85	50 FR 48844 11/27/85

Environment	Status	Federal Register Reference
Final rule regarding redesignation to attainment for carbon monoxide of a portion of the Fresno-Clovis Metropolitan Area, CA-EPA	Comments within 30 days of this notice	50 FR 47735 11/20/85
Notice of final determination on Arizona's application for final authorization of State Hazardous Waste Management Program-EPA	Effective 12/4/85	50 FR 47736 11/20/85
Final rule regarding National Oil and Hazardous Substances Pollution Contingency Plan-EPA	Effective 2/18/86	50 FR 47912 11/20/85
Availability of Final EA and record of decision for mining activity in Mill Creek Wilderness Study Area, Utah-BLM	Notice of 11/21/85	50 FR 48139 11/21/85
Notice of availability of the Draft EIS for the James Creek Coal Preference Right Lease Application in CO-BLM	Comments by 2/24/86	50 FR 48270 11/22/85
Proposed rulemaking regarding approval and promulgation of revision to the Colorado SIP-EPA	Comments by 12/26/85	50 FR 48613 11/26/85
Notice of proposed rulemaking regarding approval and promulgation of State implementation plans in the South Coast Air Quality Management District and Ventura County Air Pollution Control District in California-EPA	Comments by 12/27/85	50 FR 48798 11/27/85

Nuclear	Status	Federal Register Reference
Extension of comment period on proposed rule to change safeguards reporting requirements-NRC	Comments by 12/31/85	50 FR 48220 11/22/85
Notice of fees for Federal interim storage of Spent Nuclear Fuel from Civilian Nuclear Power Plants in the U.S. for calendar year 1986-DOE	Effective 1/1/86	50 FR 48457 11/25/85

Oil & Gas	Status	Federal Register Reference
Notice of application to amend authorization to import natural gas from Canada-ERA	Comments by 12/16/85	50 FR 47250 11/15/85
Availability of the final EIR/EIS for the Pacific Texas Crude Oil Pipeline to CA-BLM	Comments by 12/23/85	50 FR 48269 11/22/85

Utilities	Status	Federal Register Reference
Notice of programmatic memorandum of agreement regarding a California-Oregon transmission project-Advisory Council on Historic Preservation	Comments by 12/16/85	50 FR 47239 11/15/85
Notice of final allocations of contingent capacity and associated energy from the Boulder Canyon Project Uprating Program-WAPA	Effective 30 days from this notice	50 FR 47830 11/20/85

Western Interstate Energy Board/WINB
Suite 6500 Stapleton Plaza
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The Hon. Arliss Sturgulski
State Senator
Pouch V
Juneau, AK 99811

9/86

M E M O R A N D U M   January 22, 1986

TO; Senator Sturgulewski

FRC :: Resource Committee Staff

RE: Participants at 1-22 meeting

The following people will be participating in this afternoon's hearing:

From Anchorage:

MIKE FRANK, Assistant Attorney General not testimony for Q

TOM MEACHAM, member of Alaska Water Resources Board OK - was polled was Asst. A.G.

Peg Tileston " " " " "

Anchorage Water Board members, as yet unidentified.

In Juneau:

MARY LOU HARLE, Water Resource Officer, DNR ✓

RANDY WANAMAKER, Chairman, Alaska Water Resources Board ✓

Also present from DNR, but not testifying, will be:

PAULA BURGESS ~~Staff~~ Land & Water

MIKE VADINER

Bruce Baker. Fish

Water Resources Board

MEMBER	APPT	REAPPT	TERM
Thomas E. Meacham 810 "N" Street Anchorage 99501 Public/Restricted	82/09/17		86/02/21
A. Michael Neimeyer 503 East Sixth Anchorage 99501 Public/Restricted	85/01/09		89/02/21
William R. Ross DEC Juneau 99811 Comm./Designee	85/02/04		
Stanley C. Rybachek P.O. Box 55698 North Pole 99705 Public/Restricted	84/07/31		88/02/21
Margaret B. Tileston 4780 Cambridge Way Anchorage 99503 Public/Restricted	80/02/28	84/03/27	88/02/21
David Vanderbrink P.O. Box 1236 Homer 99603 Public/Restricted - ~~Chairman~~	81/02/03	85/03/08	89/02/21
Cyril R. Wanamaker (SANDY) P.O. Box 2234 Juneau 99803 Public/Restricted — CHAIRMAN	83/12/27	85/03/08	89/02/21
Wayne E. Westberg SRA Box 1559 Anchorage 99507 Public/Restricted	81/02/03	85/06/05	89/02/21
Esther Wunnicke DNR Juneau 99811 Comm./Mandated	82/12/06		

Phil Holdsworth brought by for you. TM NF

Section 46.15.040 (Note: Mike Frank is sending a letter clarifying the state liability question)

Amend subsection (d) to read: The commissioner's issuance of a permit under AS 46.15.080, or of a certificate under AS 46.15.065 or AS 46.15.120, does not represent a guarantee by the state to the permittee or certificate holder that water will be available for appropriation at a certain volume, quality, artesian pressure, or cost. This subsection does not, however, alter any rights a permittee or certificate holder may have against later appropriators, including governmental agencies.

Section 46.15.165(c)

Add a new subsection (7) to read: serve the order on all mining claimants of record with the United States and the State as of the date of the order initiating the administrative adjudication. Failure of the commissioner to notify mining claimants under this subsection shall not disable the commissioner from otherwise adjudicating the rights of parties in the adjudication.

(7)

(Note: If there is a way to avoid opening the door to notice to special interests groups, we should do so. Records of mining claimants are fairly easy to obtain; however, title searches for other landowners within a basin would be very time consuming and expensive. However, Frank Homan advised me he doesn't believe Senator Fahrenkamp will accept the bill without this. The last sentence is to provide for the situation where DNR may miss a mining claimant during the record search and to allow the adjudication to continue given the omission.)

DELIVER TO: Ned Farquhar LOCATION Juneau
FROM: Mary Lu Harle LOCATION Anchorage
TELEPHONE/TELECOPIER # 586-2754 TOTAL NUMBER OF PAGES 2
TRANSMITTING ON/SPEED _____ DATE 1-23-86 TIME 3:10
PHONE FOR PROBLEMS-NAME/NUMBER M. L. Harle 763-4317
COMMENTS Please make copy for Paula Burgess

Section 46.15.165(c)(3)

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

(Note: Bruce Landon, U.S. Dept. of Justice, worked with Mike Frank and has approved this language. We should explain in the letter that notice to specifically named agencies, such as the Bureau of Indian Affairs (BIA) can be named in the implementing regulations to keep the statute uncluttered by numerous references to numerous federal agencies. In any case, notice to the federal government of any trust land that might have federal reserved water rights must be served primarily on the U.S. Justice Department.

Section 46.15.165(c)(6)

Amend this subsection to read: (6) serve any regional corporation or village corporation established under the Alaska Native Claims Settlement Act, 43 U.S.C. §§1601-1628, ~~which~~ that has pending land selections or has acquired ownership to land under that Act ~~which~~ that are located within the adjudication area; and