

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

4334 SRES HB 627 1213

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The ALASKA ENVIRONMENTAL LOBBY, INC. (AEL), a coalition of Alaskan conservation and environmental groups, was formed in 1980 to present a unified conservation voice to the Alaska legislature. The AEL is a non-profit corporation with member organizations representing over 4000 Alaskans. The AEL does not endorse candidates nor does it donate money to political campaigns. These voting records are provided for information purposes only.

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Many volunteers assisted in the production of this voting chart. We would like to recognize Sue Libenson, Tina Derrick, Becky McGee and especially Theresa Armetta. We would also like to thank Marty Peale for the cover design, and Sara Shulsinger, Brian Allen and an anonymous reviewer for assistance in editing portions of this document. Additional copies of this document may be obtained at a price of \$4.00 each from the AEL office in Juneau.

This document was compiled under contract to the Alaska Environmental Action Committee, Box 10-1177, Anchorage, Alaska 99510.

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Explanation of Scores

Votes we consider pro-environmental are designated by a plus sign (+), and votes we consider anti-environmental are designated by a minus sign (-). Each Alaska legislator is given a score based on the votes shown. To compute the score, divide the number of positive votes by the total number of votes, ignoring absences. Excused absences are designated by an "E" while unexcused absences are designated by an "A". Use of a slash (/) indicates that a member was not in office at the time of the vote. The number designation for each vote corresponds to a short narrative description of that vote.

Explanation of Votes

We chose these votes to reflect a cross section of environmental concerns during the 1983-1984 Alaska legislature. All are recorded votes taken on the House and Senate floors. The selection of possible votes is limited by the available issues. Frequently because of the small number of legislators, particularly in the 20 member Senate, deals are cut prior to the final vote. Thus, many bills pass with unanimous or near unanimous votes, limiting the usefulness of that particular vote for our purposes. It is very important to remember that specific floor votes are only one element of a legislator's record. For example, several Senators threatened to derail and kill the Smoking Bill (HB-84). The final Senate vote was 19 - 0. That vote did not fairly reflect individual ideological positions. However, we feel that the aggregate AEL score for each legislator substantially reflects that person's concern for quality of the Alaskan environment.

HOUSE VOTE DESCRIPTIONS

1 SMOKING LEGISLATION The Smoking in Public Places Bill (HB-84) represents a strong policy to protect the rights of non-smokers to breathe clean air. Under this law, public buildings are required to provide smoke-free areas for the public and for state employees. Private businesses generally have the legal option of declaring their premises non-smoking if they so desire. Restaurants with a seating capacity of greater than 50 must provide a non-smoking area for those requesting it.

This bill passed the legislature and was signed by the governor. The House floor vote was 32 - 8. The preferred vote is YES, indicated by a +.

2 POLITICAL CONTRIBUTION PROGRAM REPEAL Presently under Alaska law, individual campaign donations of \$100 or less to political candidates, parties, or political action committees (PAC's) are directly reimbursed by the state. HB-89 would have repealed that program. The program has been very successful in involving thousands of Alaskans in the political process and, unlike most state loans and grants, everyone may participate. Although there is widespread recognition that some modifications to the program could be made, the program's elimination clearly runs counter to the public interest.

This bill passed the House 22 - 15, but was defeated in a Senate floor procedural vote. The preferred vote is NO, indicated by a +. Although the law is still on

the books, the \$2 million to fund this citizen program was deleted from the \$3.3 billion dollar budget.

3 HOMESTEADING HB-130 creates a new land disposal program, one with that seductive name left over from the last century. The sponsor's stated goal was to create an "Oklahoma style" land rush. Several improving amendments were added to the bill. However, in its attempt to give away state land, this legislation largely ignores the substantial costs, both present and future, to the state. Also, it sells an incorrect impression to Alaskans -- that this land is free. In fact, to "prove up" a homestead will require thousands of dollars in surveying, transportation, and construction costs. This is no poor peoples program. At a time when huge amounts of private land are on the market in many localities it is time for a reassessment of Alaska land policies, not an expansion.

The preferred vote is NO, indicated by a +. The final House floor vote was 21 - 13. This legislation was signed into law in 1983.

4 LATOUCHE ISLAND HARBOR REAPPROPRIATION During the 1982 legislative session, money was appropriated to build a harbor facility on the virtually uninhabited Prince William Sound island of LaTouche. Coincidentally a politically well-connected land developer was subdividing and selling parcels on that same island. Existing Prince William Sound communities were understandably angry at the appropriation since their existing harbor space was grossly inadequate. In 1983, appropriations bill HB-309 included an amendment to delete the LaTouche Island money and divert it to underfunded education programs.

The preferred vote on the amendment is YES, indicated by a +. In 1983, the governor redirected the LaTouche harbor funds to other more useful projects.

5 TANANA VALLEY STATE FOREST A wide spectrum of interest groups including environmentalists, loggers and miners supported this state forest bill (SB-108) sponsored by Sen. Fahrenkamp. Each group had its own reasons for supporting creation of a large forest near Fairbanks. However, these state forest lands will be protected from further land disposals, and resources such as water and wildlife habitat will be given appropriate consideration, along with their other potential uses. Opposition to this legislation came from those who feel the state should dispose of most of its lands, and no reserve lands for valid public purposes.

This bill passed and was signed by the Governor in 1983. The House floor vote was 29 - 10. The preferred vote on the bill is YES, indicated by a +.

6 STATE MARINE PARKS The main accomplishment of this legislation was to create and protect a dozen key, but very small, parcels of beachside land in Southeast Alaska and Prince William Sound for future Alaskans. This marine park system will likely be expanded in the future to provide additional water accessible recreation for the public. The culmination of several years' effort, SB-128 (Sen. Vic Fischer) represents a much compromised version of the original bill. All controversial parcels were excluded from the bill; nevertheless SB-128 still encountered considerable opposition from those philosophically opposed to public lands.

This bill passed and was signed by the Governor in 1983. The House floor vote was 30-10. The preferred vote on this bill is YES, indicated by a +.

7 REGIONAL RESOURCE DEVELOPMENT AUTHORITIES (RRDA) The state of Alaska presently has the largest public debt per capita of any state. Much of this debt is in the form of bonds issued by public corporations. SB-151 will allow for the establishment of 9 additional regional bonding authorities, each with the power to issue revenue bonds.

Each of these authorities will have a powerful political constituency geared to pursue development projects through both bonding and direct state appropriations. Additionally, because of the quasi-governmental nature of these authorities, the State of Alaska will be practically obligated to bail them out if the projects are not successful. To fail to do so would endanger the state's own bond rating.

This bill passed the House 29 - 11, and was eventually signed into law. The preferred vote is NO, indicated by a +.

8 PERMIT REFORM The State of Alaska through the legislature has stipulated the need for permits for actions such as bridging streams, filling wetlands, disturbing beaches and so forth. These permits are designed to protect state and local interests, as well as the environment. Permit Reform (HB-14) represents the oil industry's annual attempt to "gut" this permitting process, without concern for public health and safety.

In the last two years, Governor Sheffield has successfully implemented a package of administrative reforms designed to relieve legitimate industry complaints of red tape and permit delays. For this reason and because of stout opposition by environmentalists and local governments, the oil industry's annual attempt at enacting permits-on-demand legislation failed on the House floor 20 - 19. (Passage requires 21 votes.) The preferred vote is NO, indicated by a +.

9 INVESTMENT TAX CREDIT HB-258 will give hundreds of millions of dollars in tax breaks to subsidize mineral development projects. This pet bill of House Speaker, Joe Hayes, will allow mineral companies to apply their development costs against any tax liability -- up to \$250 million. in addition to the possible tax free bond packages newly available to the Regional Resource Development Authorities (HV #7).

The final floor vote was 26 - 14. The Governor signed this legislation. The preferred vote is NO, indicated by a +.

10 ATTORNEY FEES/PUBLIC INTEREST LAWSUITS The circumstances surrounding the introduction of HB-445 relate to an environmental lawsuit in which a southeast environmental group lost a specific lawsuit. The Alaska courts declared that it is in the public interest to encourage public interest lawsuits, and therefore the environmental group did not have to pay the winning defendants attorney's fees. The court ruling was based on several criteria for determining whether a lawsuit is truly in the public interest.

HB-445 sought to overrule the court's decision. The bill's possible chilling effect on public interest lawsuits would have been to severely restrict environmental or other public interest litigation.

Environmental organizations led a coalition of groups to defeat this legislation in a close vote on the House floor 17 - 21. A later, almost identical bill was similarly defeated. The preferred vote is NO, indicated by a +.

11 AGRICULTURAL RIGHTS TO LAND Over the last few years, the state has dis-osed of the agricultural rights to hundreds of thousands of acres of land, while retaining all development rights. This policy is designed to ensure that agricultural land stays in agricultural production. For this reason state agricultural land has been very cheap to purchase, but the farmer can only use the land for one thing - farming.

Now, many would like to change the rules and sell -- at low cost -- the full rights to that land, a case of changing the rules in the middle of the game. Dubbed the "Condo Farming Act", HB-458, actually passed the House floor. However, the key vote was amendment #5 which would have absolutely prohibited subsequent subdivision of farming lands -- thus retaining this valuable resource for future agricultural production.

Amendment #5 was defeated on the House floor 17 - 23. The preferred vote is YES, indicated by a +.

12 ALASKA RAILROAD MANAGEMENT With many thousands of acres of state land under its control, as well as access to additional state lands through expansion, the Alaska Railroad (ARR) has become a major land manager in Alaska. The ARR management bill (HB-512) makes one thing very clear. The board of directors has one primary goal -- to make money. The ARR Board will be making major decisions affecting Alaska and its development.

The board members who are running the corporation are appointed by the Governor. Board seats are designated for those with extensive transportation and financial experience. This vote concerns a floor amendment that would have fixed one slot on the board of directors for a person "with no direct or indirect financial interest in the transportation industry." This board seat could have then been available for a consumer/environmental advocate.

A vote for this amendment would have insured that average Alaskans would have had a voice in ARR management. The preferred vote is YES, indicated by a +. The amendment was defeated 16 - 23.

13 SUSITNA BLACKMAIL CLAUSE REPEAL Four years ago backers of the Susitna dam project succeeded in inserting a provision into law to require \$5 billion to be spent on Susitna -- or the rates on all other state hydro-projects would skyrocket. This provision is bad public policy, not only because it puts these other projects under a cloud, but because it assumes that Susitna is the best railbelt power option and is financially feasible. Both assumptions are highly suspect. This legislation (HB-589), as it originally passed the House, related to the Alaska Power Authority and specifically eliminated the Susitna blackmail clause.

The preferred vote on this bill is YES, indicated by a +.

14 WATERFOWL CONSERVATION STAMP The so-called Duck Stamp bill (SB-278) closely parallels the federal Duck Stamp program that has been responsible for raising millions of dollars for wetlands acquisition. Money from the state program will be used for research, public education, and other activities designed to enhance state management of Alaskan waterfowl. Purchase of this \$5 stamp will be required of all Alaska waterfowl hunters. (Actually some areas can be exempted by regulation.) In practice, most of the money raised by this program will be obtained through sales of the art prints produced along with these stamps. Other states' experience indicates that up to three quarters of the revenue generated from this program will come from the sale of art prints to collectors. However, one element required to insure the value of the prints will be that the program must be mandatory. The Zharoff/Ward amendment would have made purchase of the Duck Stamp optional, in spite of the fact that not one person or group testified in opposition to a mandatory stamp.

The amendment was defeated on the House floor 10 - 26. The preferred vote is NO, indicated by a +. This bill was signed into law by the Governor.

15 HUNTING IN STATE PARKS In response to frustration on the part of some hunters Senator Bennett (R-Fairbanks) introduced this bill (SB-289) opening up hundreds of thousands of acres of parklands to hunting. Most of the concern of hunters centered on the two biggest state parks, Denali and Chugach, but this sweeping bill actually opens a dozen parks to hunting. This meat ax approach changes long standing policy on some parks, including the Anchorage urban park, Chugach State Park.

The vote that most clearly shows legislators' views on this issue concerns an amendment by Representative Goll (D-Haines) to delete from the bill the Chilkat State Bald Eagle Preserve in Haines. That preserve, only two years old, was set aside to protect the largest concentration of bald eagles in the world. It is increasingly a major fall tourist attraction and many felt hunting was an inappropriate use of this Alaskan treasure.

The amendment passed 21 - 13. The amended bill was passed and signed by Governor Sheffield in 1984. The preferred vote on the amendment is YES, indicated by a +.

16 KNIK ARM CROSSING/TOLL COLLECTION AUTHORITY In a classic case of "log rolling" the legislature rolled two distinct bills into one package to gain support for passage. One bill authorizes the state to sell revenue bonds for toll facilities and mandates the Knik Arm Crossing to be financed first. The second bill vastly expands the purpose of the Alaska Industrial Development Authority and allows it to sell bonds for facilities that it will own and operate.

Neither bill could garner sufficient support alone, so two bills were packaged together. The bill, SB-347, raises serious legal questions for violation of a constitutional provision that mandates an allowance of only one subject per bill. This provision was meant to prevent the "Christmas tree" approach to passing legislation. Both aspects of the legislation hold numerous unanswered questions that should have been discussed and voted upon in public debate. Clearly, neither bill could stand on its own merits.

The final House floor vote was 26 - 1. The preferred vote is NO, indicated by a +. Governor Sheffield signed this legislation in 1984.

17 ALASKA RAILROAD ACQUISITION The purchase of the Alaska Railroad (ARR) represents a vote for maintaining this environmentally sound transportation system. In future surface transportation expansions, the ARR will be the environmentally preferred transportation alternative. An attempt was made to tie purchase of the ARR to a constitutional amendment requiring separation of railroad management from all aspects of state government. This provision could have been a disaster for public interest and environmental concerns making the ARR board virtually immune to public input on all issues, including land acquisitions, railroad expansions, and herbicide spraying.

The Clocksin (D-Anchorage) amendment to eliminate the tie between the ARR purchase and the constitutional amendment was defeated 19 - 21. The preferred vote on this amendment is YES, indicated by a +. The Senate eventually voted to eliminate the constitutional provision. The ARR purchase bill was passed and signed by the Governor.

18 HEALTH HAZARD ABATEMENT PROGRAM The health hazards of asbestos in Alaska's schools have recently been a topic of much discussion. In response to this grave indoor pollution health problem, SB-373, setting up a program for removal of asbestos from schools was introduced and passed the Senate unanimously.

In the House this essential legislation was held up in the Health, Education & Social Services Committee chaired by Representative Tischer (R-Anchorage). A procedural vote to bring this important bill to the House floor was defeated 17 - 23. The preferred vote is YES, indicated by a +. The bill never left Rep. Tischer's committee.

19 POWER COST ASSISTANCE For the past few years the State of Alaska has provided partial electric rate subsidies to bush areas to mitigate the high costs -- as high as \$.45 per kilowatt hour in some villages. At the same time the state has vigorously pursued alternative options and encouraged conservation.

Now the Power Cost Assistance program has been radically changed in SB-376. Rural residents under this legislation are to pay no more than the average of Anchorage, Fairbanks, and Juneau power rates. While everyone agrees that bush residents deserve a piece of the oil wealth pie, this bill clearly goes in the wrong direction. Electrical consumption is presently low in rural areas, but will almost certainly rise dramatically. The subsidy -- \$50 million appropriated for this year -- is designed to continue indefinitely. When the oil pool runs dry, however, rural electric rates will skyrocket.

This bill will eventually cause bush residents even greater hardships. It does nothing to solve the long-term problems of high cost rural power and, in fact, is counterproductive to a solution of that problem as it lulls rural people into thinking electric power is cheap.

This bill passed on the floor 24 - 16. Politically it was a trade-off for the rural politicians' support of the Susitna dam (SB-411). The preferred vote on this bill NO, indicated by a +.

20 WATER POLLUTION ABATEMENT This misnamed bill was actually an attempt to reduce clean water classifications for many of Alaska's streams and was in direct conflict

with the federal Clean Water Act. Lower water classifications from the present "drinking water" standard down to "industrial use" will allow Alaska's placer miners to pollute streams and still operate legally. Allied against these 400 miners on this legislation were sportsmen's groups, rural residents, the League of Women Voters, environmental groups, and everyone concerned about clean water in Alaska. This bill represents a crystal clear case of special interest legislation.

The bill was defeated on a House vote 18 - 20. The preferred vote is NO, indicated by a +.

21 SUSITNA APPROPRIATIONS Backers of the Susitna dam hydro project have worked mightily to insure the birth of their \$15 billion baby. Their first attempt to codify the Susitna boondoggle came with the famous "Susitna blackmail clause" (see Vote 13). Appropriation bill SB-409 automatically appropriates \$200 million to Susitna each year on July 1. \$200 million for Susitna this year makes political, if not economic, sense. But the provision to make this a continuing appropriation is constitutionally questionable. Even Governor Sheffield, in signing off on the amendment, speculated that this provision possibly violates the constitutional prohibition against legislatively dedicated funds.

The vote on the \$200 million came as an amendment by Representative Barnes (R-Anchorage). The amendment passed was adopted 22 - 18. The preferred vote on this amendment is NO, indicated by a +.

22 PLACER MINING GRANT PROGRAM Alaska is becoming famous for providing low cost loans and outright grants to one group or another. HB-461 sets up two new grant programs specifically for placer miners, a small but unarguably politically powerful group. Grants of up to \$100,000 are available to placer miners for the development of technology to increase gold recovery in placer mining. In addition, grants of up to \$100,000 are available to placer miners for the development of technology to reduce water consumption in placer mining. The reason for the first grant program is something of a mystery since presumably there presently exists a sufficient incentive to gold miners to retrieve gold. The second more acceptable grant program is intended to reduce water use and hence, water pollution. Placer mining water pollution is a serious problem in Interior Alaska.

The bill passed 26 - 14 with an odd mix of politicians in opposition questioning the value of this \$4 million subsidy for a select few people now violating water quality standards. The preferred vote on this bill is NO, indicated by a +. Governor Sheffield signed this bill into law in 1984.

Representative	<div style="display: flex; justify-content: space-between; text-align: center;"> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">SMOKING LEGISLATION</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">CONTRIBUTION REPEAL</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">HOMESTEADING</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">LATOCHE REAPPROPRIATION</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">TANANA STATE FOREST</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">STATE MARINE PARKS</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">RRDA'S</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">PERMIT REFORM</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">INVESTMENT TAX CREDIT</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">ATTORNEY FEES</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">AGRICULTURE</div> </div>										
	1	2	3	4	5	6	7	8	9	10	11
Abood	-	-	-	-	-	+	-	-	-	-	-
Adams	-	E	+	-	+	-	-	+	-	+	-
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Bettisworth	+	-	E	-	+	-	-	-	-	-	-
Bussell	+	-	-	-	-	-	-	-	-	-	-
Cato	-	-	E	+	+	+	-	+	-	-	-
Clocks in	+	+	+	+	+	+	+	+	+	+	+
Cowdery	+	-	-	-	-	+	-	-	-	-	-
Davis	+	+	+	+	+	+	+	+	+	+	+
Duncan	+	+	+	+	+	+	-	+	+	+	+
Flood	+	-	E	-	+	+	-	+	+	+	+
Fritz	+	-	-	+	+	+	+	-	-	-	-
Fuller	-	-	-	-	+	-	-	+	-	+	+
Furnace	+	-	-	-	-	-	-	-	-	-	-
Goll	+	+	+	+	+	+	+	+	+	+	+
Grussendorf	+	+	+	-	+	-	-	-	-	+	-
Hayes	+	-	-	-	-	+	-	-	-	E	-
Herrmann	+	+	+	+	+	+	-	+	+	+	-
Hurlbert	-	-	+	-	+	+	-	+	-	-	-
Koponen	+	+	+	+	+	+	-	+	+	+	+
Lacher	+	-	-	+	+	+	+	+	+	+	+
Larson	+	+	-	+	+	+	+	+	+	+	+
Lindauer	+	-	-	-	+	+	-	-	-	+	+
Liska	-	-	-	+	-	+	-	-	-	-	-
Malone	+	+	+	+	+	+	+	+	+	+	+
Martin	+	-	E	-	+	+	-	-	-	-	+
McBride	+	+	+	+	+	+	-	/	/	+	/
Miller (D)	+	+	+	+	+	+	+	+	+	+	+
Miller (R)	+	-	-	-	+	+	-	-	-	-	-
Pestinger	+	-	-	-	+	+	-	-	-	-	-
Phillips	+	+	-	+	+	+	+	+	+	+	+
Ringstad	+	-	-	-	+	+	-	-	-	-	-
Shultz	+	+	-	-	+	-	-	-	-	-	-
Sund	/	/	/	/	/	/	/	+	-	/	+
Szymanski	+	+	-	+	+	+	+	-	-	+	-
Tischer	-	-	-	-	-	-	+	-	-	-	-
Uehling	+	-	-	+	A	+	-	-	-	+	-
Vaska	+	+	+	+	-	+	-	+	+	+	+
Ward	+	-	-	E	+	+	-	-	-	-	-
Wendte	+	E	E	+	+	+	-	E	-	+	+
Zharoff	+	E	A	+	-	-	-	+	+	A	-

12	13	14	15	16	17	18	19	20	21	22	Z Correct Votes
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-	-	+	+	-	-	-	+	-	-	+	23
-	-	+	A	-	-	-	-	+	-	-	30
-	-	+	-	-	-	-	-	-	-	+	9
-	+	+	-	-	-	-	-	-	-	-	19
-	-	+	-	-	-	-	+	E	-	-	14

-	+	+	-	-	-	-	-	-	-	-	28
+	+	-	+	+	+	+	+	+	+	-	91
-	-	+	-	-	-	-	-	-	-	-	14
+	+	+	+	+	+	+	+	+	+	-	95
+	+	A	+	+	+	+	-	+	+	-	86

+	+	+	+	+	+	+	+	+	+	+	86
-	-	+	+	-	-	-	-	-	+	-	36
-	+	-	-	-	+	-	-	-	-	-	27
-	-	-	-	-	-	-	-	-	-	-	4
+	+	+	+	+	+	+	-	+	+	+	95

-	+	A	+	-	+	-	-	-	-	-	38
-	-	+	-	-	-	-	-	-	-	+	19
-	-	+	+	-	+	-	-	+	-	+	64
A	-	+	+	-	-	-	-	+	-	-	33
+	+	+	+	+	+	+	+	-	+	-	86

+	+	-	+	+	+	+	+	+	+	+	86
+	-	+	+	-	+	+	-	+	-	-	73
+	-	-	+	-	-	-	-	+	+	+	45
-	E	+	-	-	-	-	-	-	-	-	14
+	+	-	+	+	+	+	+	+	+	+	95

-	-	+	+	-	-	-	+	+	-	+	43
/	+	/	/	/	/	/	/	/	/	/	89
+	+	+	+	+	+	+	-	+	+	+	95
-	+	+	-	-	-	-	-	-	-	-	23
-	+	+	+	-	-	+	+	+	+	+	50

-	+	+	E	-	+	+	+	+	+	-	81
-	+	+	-	-	-	-	-	-	-	-	23
-	+	+	-	-	-	-	-	-	-	-	23
+	/	-	+	+	+	+	+	+	+	-	77
+	-	+	+	+	+	+	+	+	-	+	73

-	-	E	-	-	-	-	+	E	+	-	15
-	-	+	A	-	-	-	-	-	-	-	25
+	+	-	A	+	+	+	-	+	+	+	81
-	-	-	E	-	-	-	+	-	-	-	20
+	+	E	A	+	+	+	+	-	+	-	76
+	+	-	+	+	+	+	-	+	+	-	63

Average House Vote 51

SENATE VOTE DESCRIPTIONS

1 TANANA VALLEY STATE FOREST A wide spectrum of interest groups including environmentalists, loggers and miners supported this state forest bill (SB-108) sponsored by Sen. Fahrenkamp. Each group had its own reasons for supporting creation of a large forest near Fairbanks. However, these state forest lands will be protected from further land disposals and resources such as water and wildlife habitat will be given appropriate consideration, along with their other potential uses. Opposition to this legislation came from those who feel the state should dispose of most of its lands, and not reserve lands for valid public purposes.

This bill was signed into law by the Governor in 1983. The Senate floor vote was 16 - 4. The preferred vote of this bill is YES, indicated by a +.

2 STATE MARINE PARKS The main accomplishment of this legislation was to create and protect a dozen key, but very small, parcels of beachside land in Southeast Alaska and Prince William Sound for future Alaskans. This marine park system will likely be expanded in the future to provide additional water accessible recreation for Alaskans. The culmination of several years' effort, SB-128 (Sen. Vic Fischer) represents a much compromised version of the original bill. All controversial parcels were excluded from the bill; nevertheless SB-128 still encountered considerable opposition from those philosophically opposed to public lands.

The bill was signed by the Governor in 1983. The Senate floor vote was 13 - 5. The preferred vote on this bill is YES, indicated by a +.

3 ALASKA ADMINISTRATIVE JOURNAL SB-132 (Sen. Fahrenkamp, D-Fairbanks) created an administrative journal for the state of Alaska, similar to the Federal Register. It will be a compendium of information on all state actions from construction bids to notice of leasing, and promulgation of new state rules and regulations. The Alaska Administrative Journal will be a benefit to all those dealing with state agencies, particularly those people interested in making government more accountable.

This public interest bill passed the Senate 17 - 3 and was eventually signed by the Governor. The preferred vote on this bill is YES, indicated by a +.

4 REGIONAL RESOURCE DEVELOPMENT AUTHORITIES (RRDA) The state of Alaska presently has the largest public debt per capita of any state. Much of this debt is in the form of bonds issued by public corporations. SB-151 will allow for the establishment of 9 additional regional bonding authorities, each with the power to issue revenue bonds.

Each of these authorities will have a powerful political constituency geared to pursue development projects through both bonding and direct state appropriations. Additionally, because of the quasi-governmental nature of these authorities, the State of Alaska will be practically obligated to bail them out if the projects are not successful. To fail to do so would endanger the state's own bond rating.

This bill passed the Senate 15 - 4 and was signed by the Governor. The preferred vote is NO, indicated by a +.

5 PERMIT REFORM The State of Alaska through the legislature has stipulated the need for permits for actions such as bridging streams, filling wetlands, disturbing beaches and so forth. These permits are designed to protect state and local interests, as well as the environment. Permit Reform (HB-14) represents the oil industry's annual attempt to "gut" this permitting process, without concern for public health and safety.

The bill passed the Senate floor 14 - 6, but stalled in the House Finance Committee. An identical bill HB-14 was killed on the house floor (see HV #8). The preferred vote on this bill is NO, indicated by a +.

6 POLITICAL CONTRIBUTION PROGRAM REPEAL Presently under Alaska law, individual campaign donations of \$100 or less to political candidates, parties, or political action committees (PAC's) are directly reimbursed by the state. HB-89 would have repealed that program. The program has been very successful in involving thousands of Alaskans in the political process and, unlike most state loans and grants, everyone may participate. Although there is widespread recognition that some modifications to the program could be made, the program's elimination clearly runs counter to the public interest.

The bill was killed in a Senate floor procedural vote, 7 - 11. The preferred vote on this bill is NO, indicated by a +.

7 HOMESTEADING HB-130 creates a new land disposal program, one with that seductive name left over from the last century. The sponsor's stated goal was to create an "Oklahoma style" land rush. Several improving amendments were added to the bill. However, in its attempt to give away state land, this legislation largely ignores the substantial costs, both present and future, to the state. Also, it sells an incorrect impression to Alaskans -- that this land is free. In fact, to "prove up" a homestead will require thousands of dollars in surveying, transportation, and construction costs. This is no poor peoples program. At a time when huge amounts of private land are on the market in many localities it is time for a reassessment of Alaska land policies, not an expansion.

Specifically, the Senate vote concerns an amendment by Fischer (D-Anchorage) to restrict the subdividing, leasing, or selling of homestead land for a period of 5 years after acquisition. This provision was added to prevent homestead land from being used purely for land speculation.

The amendment originally passed 13 - 7, but was later modified and weakened. The preferred vote on this amendment is YES, indicated by a +.

8 HUNTING IN STATE PARKS In response to frustration on the part of some hunters, Senator Bennett (R-Fairbanks) introduced this hunting in parks bill, SB-289, opening up hundreds of thousands of acres of land to hunting. Most of the concern of hunters centered on the two biggest state parks, Denali and Chugach, but this sweeping bill actually opens a dozen parks to hunting. This meat ax approach changes long standing policy in some parks, including the Anchorage urban park, Chugach, and the Haines State Bald Eagle Preserve set aside specifically for protection of huge concentrations of bald eagles. Other traditionally people-parks were included in this legislation to the detriment of most park visitors interested in other types of recreation.

The Senate approved the bill, 15 - 5. The preferred vote is NO, indicated by a -

9 POWER COST ASSISTANCE For the past few years the State of Alaska has provided partial electric rate subsidies to bush areas to mitigate the high costs -- as high as \$.45 per kilowatt hour in some villages. At the same time the state has vigorously pursued alternative options and encouraged conservation.

Now the Power Cost Assistance program has been radically changed in SB-376. Rural residents under this legislation are to pay no more than the average of Anchorage, Fairbanks, and Juneau power rates. While everyone agrees that bush residents deserve a piece of the oil wealth pie, this bill clearly goes in the wrong direction. Electrical consumption is presently low in rural areas, but will almost certainly rise dramatically. The subsidy -- \$50 million appropriated for this year -- is designed to continue indefinitely. When the oil pool runs dry, however, rural electric rates will skyrocket.

This bill will eventually cause bush residents even greater hardships. It does nothing to solve the long-term problems of high cost rural power and, in fact, is counterproductive to a solution of that problem as it lulls rural people into thinking electric power is cheap.

This bill passed on the Senate floor 13 - 6. Politically this bill was a trade-off for the rural politicians' support of Susitna dam (SB-411). The preferred vote on this bill is NO, indicated by a +.

10 JRCA RESOLUTION Probably no legislative issue captured the public's imagination in 1984 as vividly as the Orca Resolution, SR-31. Drafted in response to a proposal by SeaWorld, Inc. to capture up to 100 Alaskan killer whales and export ten of them, a groundswell of public support eventually persuaded a reluctant Senate to pass a resolution of disapproval of the Orca capture, 13 - 5. The House held the bill in committee, effectively killing it.

The preferred vote on this bill is YES, indicated by a +.

11 INVESTMENT TAX CREDIT HB-258 will give hundreds of millions of dollars in tax breaks to subsidize mineral development projects. This pet bill of House Speaker, Joe Hayes, will allow mineral companies to apply their development costs against any tax liability -- up to \$250 million, in addition to the possible tax free bond packages newly available to the Regional Resource Development Authorities (see SV #4).

The Senate passed the bill 14 - 6, and the Governor signed it into law. The preferred vote on this bill is NO, indicated by a +.

Senator	1 TANANA STATE FOREST	2 STATE MARINE PARKS	3 ALASKA ADMINISTRATIVE JNL	4 RRDA 's	5 PERMIT REFORM	6 CONTRIBUTION REPEAL	7 HOMESTEADING	8 HURTING IN STATE PARKS	9 POWER COST ASSISTANCE	10 ORCA RESOLUTION	11 INVESTMENT TAX CREDIT	Σ Correct Votes
Bennett	+	+	+	-	-	+	-	-	-	-	-	36
Eliason	+	+	+	E	+	-	+	-	-	E	+	67
Fahrenkamp	+	+	+	-	-	+	-	-	-	-	-	36
Faiks	-	-	+	-	-	-	+	-	-	+	-	27
Ferguson	+	+	+	-	+	-	+	-	-	+	-	54
Fischer, Paul	+	+	+	-	-	-	+	+	A	E	-	56
Fischer, Vic	+	+	+	-	+	+	+	+	-	+	+	82
Gilman	+	+	-	-	-	-	-	-	-	+	-	27
Halford	-	-	+	+	+	-	-	-	+	+	-	45
Josephson	+	A	+	-	-	+	+	+	-	+	+	70
Kerttu	+	+	+	-	-	+	+	-	+	+	+	73
Kelly	-	-	-	+	-	-	+	-	+	+	-	36
Loss	+	+	+	-	-	+	+	-	-	-	-	45
Mulcahy	+	+	+	-	+	+	-	-	-	-	-	45
Pettyjohn	-	-	-	+	-	A	-	-	+	+	-	30
Ray	+	+	+	-	-	+	+	+	-	+	+	72
Rodey	+	A	+	-	-	+	+	-	+	+	-	60
Sackett	+	+	+	-	-	A	+	-	-	+	+	60
Sturgulewski	+	+	+	+	+	+	+	+	+	+	-	91
Ziegler	+	-	+	-	-	+	-	-	-	-	-	27
Average Senate Vote	16 YES	15 YES	18 YES	4 NO	6 NO	11 NO	13 YES	5 NO	6 NO	13 YES	6 NO	52

SUMMARY ANALYSIS OF VOTES

	<u>House</u>	<u>Senate</u>
Average	51%	52%
Democrats	68%	60%
Republicans	30%	46%
Majority Coalition	27%	55%
Minority	85%	46%

Regional Votes

Anchorage	37%	55%
Bush	50%	53%
Interior	45%	39%
Southcentral (excluding Anchorage)	64%	52%
Southeast	79%	52%

WANT TO BE A MEMBER? NEED TO RENEW?

Here is a membership form for National Audubon Society and the Juneau Chapter (A-51,7XCH). Send to: Membership Chair, JAS, Box 1725; Juneau, AK 99802

Check one: Introductory \$20 ___ Individual \$30 ___ Family \$38 ___ Student \$18 ___

Sr. Citizen Individual \$21 ___ Sr. Cit. Family \$21 ___

Check one: Payment enclosed ___ Please bill me ___

Name _____

Address _____

City _____ State _____ Zip _____

Phone _____

Are you interested in helping? IF YES, please check:

Membership Conservation Publicity
 Programs Newsletter Field Trips
 Education Occasional Volunteer (booths, phones, events, etc...)

JUNEAU AUDUBON SOCIETY OFFICERS AND CHAIRPERSONS

PRESIDENT: Mary Lou King, 789-7540 CONSERVATION: Pete Martinez, 789-4947
VICE-PRES: Jane Ginter, 789-7432 EDUCATION: Marilyn Sigman, 789-1375
SECRETARY: Patricia Dobbins, 789-2986 FIELD TRIPS: Paul Bowen, 586-6923
TREASURER: Richard Erman, 789-2481 PROGRAM: Vacant
PUBLICITY: George Utermohle, 586-3849 MEMBERSHIP: Pat Shaw, 536-1457
RAVEN PRODUCER/EDITOR: Jane McMillan Ginter, 789-7432
ADOPT A REFUGE: Pete Islieb and Jim King, 789-7540
SPRINGFEST COORDINATOR: Judy Shuler, 789-9544
ARTABON COORDINATOR: Marti Early, 586-5975

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Juneau, AK 99802

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JUNEAU AK 99801

THE RAVEN



Vol.10 No. 9

JUNEAU AUDUBON SOCIETY

MAY 1986

MAY MEETING

RECREATION ON JUNEAU'S PUBLIC LANDS--current status and future plans.

Linda Kruger from State Parks will talk about State Park Trails around Juneau. Reid Gardener from the Forest Service will discuss recreation on Forest Service Lands. Bob Grochow from the Borough Parks and Recreation Department, has been asked to tell us about the new ordinance on Borough Park Land and Paul Bowers, Airport Manager will discuss plans for the float plane basin and dyke and recreational use of the airport/wetland area.

Election of officers.

THURSDAY
May 8, 1986

NORTHERN LIGHT UNITED CHURCH
400 11th Street

7:00 PM

NEXT REGULAR MEETING AFTER THE MAY MEETING WILL NOT BE UNTIL SEPTEMBER

AUDUBON'S CLINE TO RECEIVE CONSERVATION AWARD

David R. Cline, Alaska Regional Vice President for the National Audubon Society, has been selected to receive the 1986 Chevron Conservation Award. Cline is one of 10 recipients of the award nationwide in the Professional Conservationist category. The awards program honors Americans who have made an outstanding contribution to the conservation of renewable natural resources. He and other award winners will be honored at a banquet in Washington, D.C. on May 22.

CONSERVATION NEWS FROM THE ALASKA REGIONAL OFFICE OF AUDUBON

Dave Cline, head of the Alaska Regional Office, joined officials from the U.S. Fish and Wildlife Service, the Alaska Dept. of Fish and Game and the Association of Village Council Presidents and their Waterfowl Conservation Committee in Bethel to renegotiate the Yukon-Kuskokwim Delta Goose Management Plan. The goal is to restore four species of geese that nest on the Y-K Delta to healthy population levels.

The four species of geese involved are the cackling Canada goose (population dropped from 384,000 to 32,000, a 90 percent drop), black brant (from 187,000 to 128,000), emperor goose (from 139,000 to 53,000) and Pacific white-fronted goose (from 490,000 to 94,000) and the population dropped these amounts between 1965 and 1985.

Provisions of 1986 plan include:

- 1) A total flyway-wide ban on shooting cacklers, whether for sport of subsistence;
- 2) No gathering of goose eggs;
- 3) Subsistence hunting of brant, white-fronts, and emperors allowed prior to nesting, and sport and subsistence hunting of these species in the fall;
- 4) No hunting of any geese during nesting, molting, and brood rearing;
- 5) Timely development of a "comprehensive Goose Conservation Plan" for the four species by the U.S. Fish and Wildlife Service;
- 6) Identification of alternative sources of food to meet village nutritional needs;
- 7) Sharing of annual population and harvest data, and involvement of natives in discussions of goose biology, regulations, research and management;
- 8) Acquisition of additional wintering habitat and establishment of sanctuaries for geese in the Pacific Flyway;
- 9) Refraining from unnecessarily disturbing geese during their nesting, rearing, molting, staging and pre-migration periods;
- 10) Joint monitoring, verification and enforcement of plan provisions by ADF&G, FWS and AVCP.

CLASSIFICATION OF VALLEY WETLAND VALUES

A Juneau City-Borough effort to evaluate and classify Mendenhall Valley wetlands was kicked off in early April. The goal of the study is to assign a low, medium or high value to valley wetlands based on biological and hydrological data. A final report is expected by January 1987.

The main boundaries of the study area are the National Forest boundary near the Mendenhall Glacier, the Mendenhall Peninsula, the North Douglas Highway and an imaginary line down the ridge of Thunder Mountain. Some gerrymandering of the boundary allows inclusion of wetlands along the proposed water line to AuKe Bay. Excluded from the evaluation are lands within the Mendenhall Game Refuge and within airport boundaries, the latter being excluded because of a separately funded and scheduled evaluation.

Performing the \$189,734 study are Paul Adamus, namesake of the nationally recognized Adamus Wetland Evaluation System, Dr. Don Siegel, project hydrologist, and Peter Bales, research assistant. Ira Winograd, Assistant Planning Director for the City-Borough, is the project manager and chairs an advisory task force comprised of representatives of five federal and six state agencies.

A public meeting is tentatively scheduled for June.

PLANT OF THE MONTH

By Sondra Stanway

Wild Cucumber (Streptopus amplexifolius)

A walk through any of the wooded areas around Juneau should provide an opportunity for you to become familiar with the wild cucumber. At this time of the year, the pale green shoots are only a few inches high. Within a short time, however, the plant reaches up to 3 1/2 feet. The leaves are from 2 to 5 inches long, alternate, and appear to clasp the stem, hence one of its other common names, the clasping twisted stalk.

The bell-shaped flowers are greenish-white and grow singly beneath each leaf along the upper part of the stem. The fruits are elongated, yellowish-white or orange berries which turn a light red when ripe. Although these juicy berries are used by the Natives in the Bristol Bay area, the Northwest Coast Indian groups believed them to be poisonous to humans. All agree, however, that the tender young shoots are edible; they can be eaten raw and enjoyed for their cucumber-like flavor.



Mendenhall Peninsula Blueberry Trail

This is an unofficial trail used by berry pickers. It follows the old logging road up the ridge. The trailhead is approximately 500 feet from the top of the peninsula on Engineer's Cutoff on the east uphill side. It is approximately 1/2 mile to the top of the ridge on the trail where there is an outstanding view of the Mendenhall Wetlands to the east and AuKe Bay to the west. Great place to go for a picnic when time is limited and the weather is good.

A ridge trail to run the full length of the Peninsula has been proposed by a number of people. Old trails already exist a good part of the way.

SPRINGFEST REPORT

BY Judy Shuler

Once again, we seemed to touch a responsive chord with Audubon Springfest. Our activities were very well-attended and well-received.

Over 100 persons turned out for the wetlands celebration featuring author Peter Steinhart, a slide program by Bob Armstrong and presentation of the first Georg Wilhelm Steller awards (winners are listed in another article). Auction of the wildflower quilt stitched by Mary Lou King brought \$425 from William and Evelyn Dunn enriching their home and Audubon coffers.

Artabon '86 at Anderson Gallery featured 46 pieces in watercolor, photography, batik, serigraphy, acrylic, oil, scratchboard, pen and ink, pencil, linoleum embossing, woodcarving, stained glass, ceramic and fiber. Best of show award went to Sharron Lobaugh for her watercolor of skunk cabbage. Awards for excellence were presented to Bob Armstrong, Pat Bergander, Deborah Hansen, Karen House, Cynthia Meyer, Kristi Allen Moritz, Gail Niebrugge, David Sekstrom and Alice Slattery. More than 100 persons attended the opening reception.

Much of the credit for the success of Springfest goes to our special guests, magazine writer Peter Steinhart and wildlife artist Daniel Smith. They willingly shared their experience and insights not only in public workshops and lectures, but also in classrooms and media interviews.

Numerous individuals, businesses and agencies also contributed resources and energy to Springfest activities. These include Juneau Arts and Humanities Council; University of Alaska-Juneau Continuing Education Department; Anderson Gallery; U.S. Forest Service Information Center; Baranof Hotel; Juneau Parks and Recreation Department; Fred Meyer Corp.; Dale De Armond; flutists Julie Gasparek and Carrie Burke; auctioneer Lady Jane Mulready; Juneau Empire; KTOO-FM; KJUD; KINY; KJNO.

Finally, special thanks to all Audubon members who supported Springfest activities with your attendance as well as your assistance in the countless organizational details.

It's gratifying to realize that Juneau Audubon Society has a wellspring of community interest from which to draw. Hopefully the support and goodwill demonstrated during Springfest will enhance our effectiveness when we become involved in various environmental issues.

JUNEAU AUDUBON SOCIETY ANNOUNCES STELLER AWARDS

Past and present public officials, elementary and middle school teachers and a long-time local ornithologist are among the first recipients of the Georg Wilhelm Steller awards presented by Juneau Audubon Society.

Awards were presented at a program highlighting wetlands resources Tuesday, April 22 at the Baranof Hotel.

Steller awards recognize actions that support a healthy environment for people and wildlife. A German naturalist, Steller conducted the first scientific field trip in Alaska, in 1741.

Named as Birder of the Year was Dr. Ralph Williams, a long-time Juneau ornithologist.

Former Mayor Fran Ulmer and former city manager Pat Teague were recognized for enhancing the human environment through their commitment to urban beautification.

Members of the Juneau City and Borough Assembly were commended for passing a Park System Ordinance protecting wild park areas and important access routes between highways and beaches.

Alvin L. Ewing, U.S. Environmental Protection Agency, and Col. Wilbur T. Gregory, U.S. Army Corps of Engineers, received awards for their role in protecting the natural habitat of the downtown Gold Creek Delta.

Rep. Mike Miller was recognized for his role in creation of the Mendenhall Wetlands State Game Refuge as a member of the House of Representatives and for consistently voicing environmental concerns throughout his legislative career.

Teachers receiving awards for their involvement in the annual Sea Week program include Janie Homan, Judy Maier and Susan Baxter, Capital School; Chris Thomas, Mendenhall River Community School, and Jerry Hard, Leslie Lyman and Mary Becker, Marie Drake Middle School.

The Steller awards and wetlands' program were a part of Audubon Springfest.

SITKA'S CHRISTMAS BIRD COUNT

By Kent Hanson

A new phrase was used with increasing frequency during the Sitka Christmas Bird Count--"A paucity of." Fewer species and numbers of birds were counted. There were fewer participants and the number of party hours dropped, a five year low. And yet, forty nine species with a 3599 total count wasn't too bad when nine determined birders "tallied up" in the evening after the Christmas count that warm December 29 Sunday.

The land bird count was very low. Pine grosbeaks seemed common but where were the raptors, siskins, crossbills, juncos? "Probably the warm weather?" "They're scattered and high", were some of the comments of hypothesis.

The water birds saved the day. Wintering mallards were greatly up in number. We only recorded two loon species, common and yellow-billed, but everything else was in place. Even the gulls were abundant despite the closure of the Sitka landfill (the dump).

The week before the Christmas Bird Count a single gadwall was often seen in Swan Lake at Sitka. The Trumpeter swans were in Nakwasina Sound and a goshawk was seen near town.

The year in birding in the Sitka area was superb. This correspondent recorded two cassin's auklets near Biorka Island in September. Jaegers of all three species were seen harrying gulls off Symmond Bay near Biorka. A state park employee reported seeing a peregrine making feral pigeon kills over the Castle Hill in Sitka!! Another reliable observation was made of a band-tailed pigeon near the ferry terminal.

So many outstanding birding experiences were had here at Sitka thru the year despite the low count at Christmas--which really wasn't that bad--just down from the past years.

TRAILS OF THE MONTH

By Mary Lou King

Auke Lake Trail

Access: 11.3 mile on the Glacier Highway (starts on the south side of the parking lot by the float planes on Auke Lake)

This trail goes to the right through the trees for 1/8 of a mile before coming to the Lake shore line. The trail is a beautiful one mile fairly easy walk though some very big trees and along the edge of the Lake from Glacier Highway to the Mendenhall Loop Road. Beaver, otter, squirrels, fish, waterfowl and forest birds live here. The Loop Road trailhead is located 500 feet west of the Goat Hill Road 1.2 miles from the DeHart innersection. It is an approximately 3 mile round trip to walk along the trail from Glacier Highway to the Loop Road then back around the other side of the Lake on the Loop Road to the UAJ trail to the campus and back to Glacier Highway.

Beach Access Trails on Fritz Cove Road

Ann Coleman Road Beach Access at 1.6 mile Fritz Cove Road. Turn on the Ann Coleman Road. The trailhead is .2 of mile straight down this road to the beach. The trail is just a few feet to the beach with a beautiful view of Auke Bay and the Chilkat Mountains and a very rich innertidal beach. The small island to the left is Borough property. No Parking

Smuggler's Cove Beach Access. Trailhead at the end of the Fritz Cove Road. It is approximately 50 feet to the beach on a fairly gentle slope making it possible to launch a canoe or kayak. Extremely rich innertidal beach and good bird watching.

Mendenhall Peninsula Road Beach Access

There are two Beach Access trails on the East side of the Mendenhall Peninsula. Turn off on the Engineer's Cutoff Road at 10.8, follow it 1.1 to Mendenhall Peninsula Road. Turn left on this road for .9 of a mile for a short gentle trail to the Mendenhall Wetlands. The second access is at the end of the road. It is approximately 1/4 mile to the beach. The view of the Mendenhall Glacier is spectacular to the north. The mouth of the Mendenhall River is to the East. Good bird watching spot.

It is possible to walk down the trail then to the beach and on around to Smugglers cove on the beach at low tide.



PLACER MINING AND ITS BEDFELLOWS

"Alaska is where a man feels free to destroy an entire valley by placer mining...in order to extract one peanutbutter jar full of gold dust"... (Edward Abbey, Beyond the Wall)

It's outrageous and it's illegal, but there may finally be a clean up of an industry that for too long has been out of control.

Several months ago, the Environmental Protection Agency took action against a few obstinate placer miners whose impacts to land and water, coupled with their contempt for the law demanded, intervention.

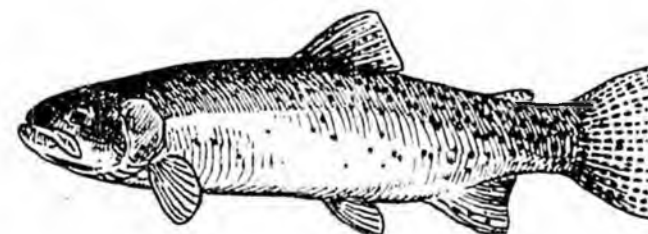
At about the same time, the federal court issued a decision in favor of plaintiffs in a case filed by environmental organizations against the Park Service and BLM for failure to follow their own agency regulations in regulating errant placer miners operating on federal lands.

Efforts by the Alaska Department of Fish and Game and the Department of Environmental Conservation to improve placer operations have been valiant, despite enormous political opposition and reduced budgets for habitat and water quality divisions of these agencies.

And yet on the horizon, the Alaska Legislature is preparing to crush these state agencies to protect the avaricious interests of a miniscule minority of placer miners, many of whom are not even residents of the state. Arliss Sturgulewski, Bettye Fahrenkamp, and Don Bennett want to give away the remaining clean water to be found in the Interior to be transformed into a sea of mud. Sturgulewski has sponsored a new "Dirty Water Act" (SB 460) which would allow the appropriation of water by placer miners so ADF&G and ADEC won't be able to hassle rogue miners for mucking up public resources. Of course Sturgulewski's bill is completely contrary to federal environmental regulations, but why should the bill's sponsors care? It makes good press. Right?

Maybe other Alaskans care. Maybe Alaskans don't want to find their fishing streams obliterated and their wildlife run off by a DB Cat. Maybe villages are tired of seeing their drinking water made unpotable by the placer activities 100 miles upstream. Maybe tourists don't want to travel to a state that allows the landscape to be turned into a tortured ooze. Maybe we shouldn't vote for people who support the ruin of our state and its reputation.

It is no coincidence that authors Abbey, McPhee, and McGinniss have all emphasized the Alaskan way of doing business. Maybe it's time for Alaska to discard the idea that miners be given a special privilege to violate the law, destroy fish and wildlife, and degrade public resources just because it is "colorful, macho, and individualistic". It is, in fact, just plain wrong.



RSN#1495

ALASKA HOUSE OF REPRESENTATIVES
SCS CSHB 627 (RES) RS

2ND SESSION 14TH LEG

5/13/86

21 YEAS 19 NAYS 0 EXC

0 ABS

Y	ADAMS	Y	FULLER	Y	LARSON	N	POURCHOT
N	BINKLEY	Y	FURNACE	Y	MARROU	Y	RIEGER
N	TOUCHER	N	GOLL	Y	MARTIN	Y	RINGSTAD
N	CATO	N	GRUENBERG	N	MILLER, R.M.	Y	SHOLTZ
N	CLOCKSTN	Y	GRUSSENDORF	Y	MILLER, R.W.	N	SUND
Y	COLLINS	Y	HANLEY	N	MUARRE	N	SZYMANSKI
Y	COTTON	N	HERRMANN	Y	PEARCE	Y	TAYLOR
N	DAVIS	N	HURLEY	Y	PETTYJOHN	N	THOMPSON
N	DUNCAN	Y	JENKINS	Y *	PHILLIPS	N	UEHLING
Y	FRANK	Y	KUPONEN	N	SIGNALBERT	N	WALLIS

* VOTED FOR

Introduced: 5/9/86
Referred: Rules

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 SENATE RESOLUTION NO. 12
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 Supporting the provisions of the Alaska
6 Native Claims Settlement Act and oppos-
7 ing certain amendments to that Act.

8 BE IT RESOLVED BY THE SENATE:

9 WHEREAS the State of Alaska traditionally has considered and treated
10 all residents of the state as equal citizens under the law, the United
11 States Constitution, and the Alaska Constitution; and

12 WHEREAS the United States Congress declared as its policy in Section
13 2(b) of the 1971 Alaska Native Claims Settlement Act that "the settlement
14 should be accomplished rapidly, with certainty, in conformity with the real
15 economic and social needs of Natives, without litigation, with maximum
16 participation by Natives in decisions affecting their rights and property,
17 without establishing any permanent racially defined institutions, rights,
18 privileges, or obligations, without creating a reservation system or
19 lengthy wardship or trusteeship, and without adding to the categories of
20 property and institutions enjoying special tax privileges or to the legis-
21 lation establishing special relationships between the United States Govern-
22 ment and the State of Alaska"; and

23 WHEREAS the State of Alaska has been an active participant in effect-
24 ing the Alaska Native Claims Settlement Act, has contributed \$500,000,000
25 from the state treasury to the 13 Alaska Native regional corporations, and
26 has supported the granting of title to 44,000,000 acres of land in the
27 state; and

28 WHEREAS the Alaska Native Claims Settlement Act provided for the
29 gradual transition from trust status for Alaska Natives to equality for all

Introduced: 5/9/86
Referred: Rules

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2 SENATE RESOLUTION NO. 12

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21 lation establishing special relationships between the United States Govern-
22 ment and the State of Alaska"; and

23 WHEREAS the State of Alaska has been an active participant in effect-
24 ing the Alaska Native Claims Settlement Act, has contributed \$500,000,000
25 from the state treasury to the 13 Alaska Native regional corporations, and
26 has supported the granting of title to 44,000,000 acres of land in the
27 state; and

28 WHEREAS the Alaska Native Claims Settlement Act provided for the
29 gradual transition from trust status for Alaska Natives to equality for all

1 Alaska citizens; and

2 WHEREAS in 1986 two members of the Alaska Congressional delegation
3 introduced S. 2065 and H.R. 4162, which would substantially amend the
4 intent and specific agreements of the Alaska Native Claims Settlement Act;
5 and

6 WHEREAS any action at the federal level to weaken the State of
7 Alaska's position in treating all Alaskans equally is detrimental to the
8 long-term social, cultural, and economic future of the citizens of the
9 state; and

10 WHEREAS the Alaska Native Claims Settlement Act intended that the
11 Alaska Native Community, through its regional corporations, would become a
12 significant element of the business and economic enterprise system in the
13 state, and certain immunities included in the proposed 1991 amendments
14 would preclude free economic exchange; and

15 WHEREAS United States Senator Frank Murkowski has requested "the
16 official views of our state legislators...on this important legislation";

17 BE IT RESOLVED that the Alaska State Senate supports the Alaska Native
18 Claims Settlement Act as originally passed, including its intent and pur-
19 poses; and be it

20 FURTHER RESOLVED that the Alaska State Senate opposes any amendments,
21 such as those proposed in the "1991" package, that would legally alter the
22 intent and provisions of the 1971 Alaska Native Claims Settlement Act by
23 creating permanent racially defined institutions, by granting racial stock
24 provisions, or by establishing racially defined tax privileges; and be it

25 FURTHER RESOLVED that the Alaska State Senate opposes any amendments
26 to the 1971 Alaska Native Claims Settlement Act, including those proposed
27 in the "1991" package, that would establish a unique relationship between
28 certain Native Americans and the federal government, that would cause
29 Alaska Natives to relinquish their Alaskan and United States "first class

1 citizen" status, and that would reduce Alaska Natives to the status of a
2 "ward of the United States government"; and be it

3 FURTHER RESOLVED that the Alaska State Senate does not oppose extend-
4 ing the 1991 deadline under the Alaska Native Claims Settlement Act to the
5 year 1996; and be it

6 FURTHER RESOLVED that the Alaska State Senate opposes any amendments
7 to the Act that would allow unequal exempt status of developed state land
8 and thereby unfairly transfer the tax burden to other existing land owners;
9 and be it

10 FURTHER RESOLVED that the Alaska State Senate opposes amendments to
11 the Act that would permit the transfer of nontaxable properties to corpo-
12 rations or entities organized under federal law, but not organized and
13 recognized under the constitution and laws of the State of Alaska; and be
14 it

15 FURTHER RESOLVED that the Alaska State Senate desires to preserve the
16 provisions and spirit of the 1971 Alaska Native Claims Settlement Act that
17 ratify Native Alaskans' rights as full citizens of the State of Alaska and
18 the United States of America; and be it

19 FURTHER RESOLVED that the Alaska State Senate respectfully requests
20 the United States Congress to hold extensive public hearings in all elec-
21 tion districts of Alaska on the 1991 amendments to assure broad public
22 understanding and comment.

23 COPIES of this resolution shall be sent to the Honorable Ronald
24 Reagan, President of the United States; the Honorable George Bush, Vice
25 President of the United States and President of the U.S. Senate; the
26 Honorable Thomas P. O'Neill, Speaker of the U.S. House of Representatives;
27 and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S.
28 Senators, and the Honorable Don Young, U.S. Representative, members of the
29 Alaska delegation in Congress.

* Section 1. AS 16.05.⁰⁵⁰~~930~~ is amended by adding new subsections to read:

(b) The commissioner may not require a person engaged in placer mining to discharge water used in placer mining with a higher quality than the natural background condition.

(k) In this section "natural background condition" means those conditions, physical, chemical, biological or radiological, which exist(ed) in a water before any man-induced discharge into the water or any activity of man resulting in addition of material into the water.

by V. Fischer
4/30/86

OK

A M E N D M E N T

Senate CS for CS for House Bill 627 (Resources) 4/29

Page 1, lines 10 and 11

after quality delete: "for appropriated water than the quality of water received for use"

and insert: "for appropriated water used in placer mining than the quality of water received for such use"

Page 1, lines 13 and 14

after quality delete: "for appropriated water than the quality of water received for use"

and insert: "for appropriated water used in placer mining than the quality of water received for such use"

Page 1, line 17

after "quality of appropriated water" insert: "used in placer mining,"

Page 1, line 19

after "for" insert: "such"

TELECONFERENCE PARTICIPATION

Sponsor Anti Sources
 Subject SB 627
 Date/Time 4/30

LIO

Anchorage	Petersburg <i>listen Only</i>
Barrow	Sitka
Bethel	Soldotna
Delta Junction	Valdez
Dillingham	LTC
Fairbanks <i>Bruce Grayby to testify</i>	Cordova
Glennallen	Haines
Duneau	Homer
Ketchikan	Naknek
Kodiak	Newhalen
Kotzebue	Saint Paul
Mat-Su	Sand Point
Nome	Seward
	Togiak
	Unalaska
	Wrangell

Amendment Rejected

4-1

* Section 1. AS 16.05.⁰⁵⁰~~920~~ is amended by adding new subsections to read:

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(c) In this section "natural background condition" means those conditions, physical, chemical, biological or radiological, which exist(ed) in a water before any man-induced discharge into the water or any activity of man resulting in addition of material into the water.

the

adopted 4/30/86

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after "for" insert: "such"



ALASKA MINERS ASSOCIATION, INC.

509 W. Third Ave., Suite 17, Anchorage, Alaska 99501 (907) 276-0347

April 30, 1986

Senator Arliss Sturgulewski
Chairman, Resources Committee
Pouch V
Juneau, Alaska 99811

RE: CSHB 627
4/29/86 Draft

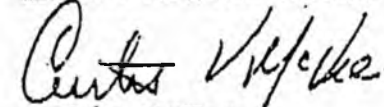
Dear Arliss:

Based on further analysis the Alaska Miners Association would support and recommend passage of the bill as now worded.

We understand the risks related to the regulatory position of EPA and the relationships of this language to the Clean Water Act.

Sincerely,

ALASKA MINERS ASSOCIATION


Curtis McVee
Executive Director



ALASKA MINERS ASSOCIATION, INC.

509 W. Third Ave., Suite 17, Anchorage, Alaska 99501 (907) 276-0347

April 30, 1986

Senator Arliss Sturgulewski
Chairman, Senate Resources
Pouch V
Juneau, Ak 99811

RE: CSHB 627

Dear Arliss;

Thank you very much for the opportunity to comment on CSHB 627. You should have received a communication from Curt McVee, Executive Director of the Alaska Miners Association. I support that position.

In addition to Mr. McVee's position, I would like to state that the legislature must make the decision as to whether they want Alaska's oldest industry to survive, or not. This decision can no longer be delayed. The State of Alaska has to take a firm stand, and it appears that that stand can only come from the legislature at this point.

The Clean Water Act, which is the very basis for regulation of water quality in Alaska, is dedicated to ensuring that regulations are economically achievable. We believe that the wording of CSHB 627 that discussed economics would allow the State and EPA flexibility in dealing with the placer mining issue in Alaska.

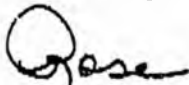
We supported SB 460 which contained essentially the same language that is currently in CSHB 627. In that respect, we support the current draft of CSHB 627. However, we strongly urge your consideration to keeping the original change in that discussed economics.

We have received a copy of a letter written by Representative Goll to Mr. Ralph R. Bauer, EPA. In his fourth paragraph, Mr. Goll discusses a typical situation, where miner A is discharging water that measures .7 ml/l, Miner B (receiving .7 ml/l into his operation is required to discharge .2 ml/l. It appears that Representative Goll would prefer that miner B be cited for his inability to clean up the discharge, rather than miner A, nature or other causes. We believe this reasoning is flawed.

Also, from discussions with EPA in Washington, D.C., we are led to believe that EPA would have no problem with the current proposed legislation. In fact, EPA, in their proposed permits for 1985, had a 1.5 ml/l surge factor that would have covered the situation in all but the most extreme cases. As you know, the State of Alaska modified that proposed permit to .2 ml/l.

Again, I believe it is of the utmost importance for the State of Alaska to take a strong stand in support of its oldest industry. We urge your immediate passage of CSHB 627.

Sincerely,



Rose Rybachek



Miners Advocacy Council

P.O. Box 83909

Fairbanks, Alaska 99708

452-6227

April 30, 1986

Senator Arliss Sturgulewski
Chairman, Senate Resource Committee
Pouch V
Juneau, AK 99801

Dear Arliss:

The Board of Directors of MAC are very much in favor of Senate CS for CS for HB 627 (Resources) as written. However, we understand from your office that the bill cannot pass as written, due to the technical advice that the economic considerations would place the State at odds with the Federal Government. I am not sure that's bad. But the CWA does have provisions for economic considerations and in the Federal Register of proposed National Effluent Guidelines economics plays a major role in the proposed levels of attainment for the industry. So while we disagree with the technical advice the Senate has received, we feel strongly that we miners must have at least some measure of legislative relief this year, and hopefully we can work again next year in a more favorable climate to accomplish, at long last, enough legislative relief to allow at least the majority of miners to operate legally.

Therefore, we do support the bill with some changes.

1. Line 16 - change [may] to shall.
2. Line 19 - insert not require, delete [a person...(delete through line 23 to)... may not require] a higher discharge...
3. Line 24 delete [standards] for...

This would clean up the bill enough so that economics would not be considered. Therefore, the proposed addition of repeal language would not be required. This bill, then, in effect would remove water quality regulation from DNR and F&G, which it should. It also would require the DEC to measure above intake levels, which it should.

The only need I can foresee to ever change this bill would be if the state needed to budget cut so much that they placed all natural resource matters, including water quality, within the DNR, and regulated DEC's and F&G's activities as a division of DNR.

At that time, this bill may need some slight modifications, as well as other bills pertaining to DEC and F&G.

We disagree with Commissioner Bill Ross's position that the bill would still be in conflict with EPA or jeopardize the State's assumption of section 402, CWA.

Respectfully submitted,



Bob Aumiller
President
Miners Advocacy Council

BA/cf

cc: All members of the Senate Resource Committee



ALASKA MINERS ASSOCIATION, INC.

509 W. Third Ave., Suite 17, Anchorage, Alaska 99501 (907) 276-0347

April 30, 1986

Senator Arliss Sturgulewski
Chairman, Resources Committee
Pouch V
Juneau, Alaska 99811

RE: CSHB 627

Dear Arliss;

The Alaska Miners Association has been following CSHB 627 because of language proposed concerning regulation of appropriated water. We were very supportive of early language recognizing that standards have to be attainable through practicable and economically sustainable technology. This language would allow for realistic regulations. We are not promoting irresponsible disregard for water quality but trying to obtain laws and regulations under which the industry can survive.

We understand that the above language has been further amended to now just state that "the commissioner (ADEC) may not require a higher discharge quality than the quality received for use" and that this language is not acceptable to ADEC. They are using the argument that it will not meet federal standards, will result in the State of Alaska losing its ability to certify the federal NPDES permits, and jeopardize the mining industry.

The AMA position is that the industry is in such dire straits that without the support of the legislature and the State of Alaska, it will not survive. We would like to see the initial AMA supported language moved and then negotiate with EPA on the highest level.

Governor Sheffield has stated that he will take on the federal governments regulations and policies even it if means litigation to protect Alaska's interest.

Please vote to support the original language in CSHB 627, recognizing attainable and economic constraints.

Sincerely yours,

ALASKA MINERS ASSOCIATION

Curtis McVee
Executive Director

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 101200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

APR 23 1986

REPLY TO
ATTN OF

M/S 601

Peter Goll, Chairman
Special Committee on Fisheries
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Goll:

This letter is in response to your April 19, 1986, letter which posed several questions relative to draft Senate Bill (S.B.) 460. Specifically, your questions, as we understand them, pertain to a section of S.B. 460 which reads, "The commissioner may not require a higher discharge quality standard for appropriated water than the water received for use."

Your questions and EPA responses follow:

1. Would incorporation of the language in S.B. 460 in Alaska statute affect ADEC's ability to certify federal NPDES permits for placer mining? Specifically, do you foresee circumstances under which ADEC would be forced to forego its right to certify the federal permits.

Response: The Federal Clean Water Act provides for states to review and certify that federally issued NPDES permits are consistent with state water quality standards. The language of draft S.B. 460 appears to preclude any consideration by the state of consistency of a permit with water quality standards particularly when intake water exceeds EPA proposed permit limitations. Under those circumstances, the state would probably have to waive the opportunity to certify.

2. Would passage of this legislation affect possible assumption by the state of the NPDES permitting program?

Response: Legislation of this nature would definitely preclude delegation of the NPDES permitting program to the state of Alaska. If language of this nature were enacted, it would cloud the possibility of a delegation because it establishes a clear intent to operate in a manner inconsistent with federal law.

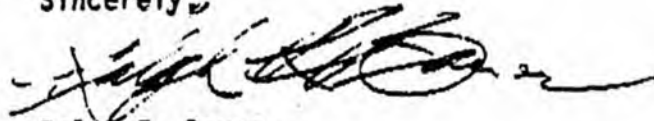
2

3. Would this legislation in any way effect federal funding of the state's water pollution control program or other projects, such as minicipal (sic) water and sewer construction grant funds?

Response: Grant funding levels could be impacted by legislation of this nature. EPA program grants are performance based. Therefore, the state grant might well be reduced in proportion to the work currently being done by the state which the proposed the legislation would preclude.

I hope this information will be useful to you and your colleagues as you deliberate on this matter. If you need additional information, please feel free to contact Al Ewing, Assistant Regional Administrator for Alaska at (907) 271-5083.

Sincerely,



Ralph R. Bauer
Acting Regional Administrator

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

APR 22 1986

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

April 22, 1986

Honorable Arlisc Sturgulewski
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Re: Senate Committee Substitute for Committee
Substitute for House Bill No. 627 (Resources)

Dear Senator Sturgulewski:

On April 21, 1986 the Department of Environmental Conservation ("DEC") requested the Attorney General's Office to provide you with an analysis of SCS CSHB 627 (Res.). This letter constitutes our response to DEC's request. As discussed below, SCS CSHB 627 (Res.) will have major impacts on the existing state water quality regulatory structure, particularly in the area of placer mining. Because of the limited time available for this review, our discussion focuses on the major legal impacts of the bill. Additional impacts may well exist.

Section 3, the bill's key provision, provides as follows:

AS 46.03 is amended by adding a new section to read:

Sec. 46.03.892. Regulation of appropriated water. (a) When considering the quality of appropriated water and establishing regulations for the quality of appropriated water, the commissioner may require a person who appropriates water to meet a standard that is equal to but not higher than a standard attainable through the application of best practicable and economically sustainable technology associated with the particular use.

(b) The commissioner may not require a higher discharge quality standard for appropriated water than the quality of water received for use.

When read in context, it becomes apparent that the term "appropriated water" means "water used in placer mining." ^{1/} Section 3 would prohibit DEC from requiring a placer miner to meet any water quality standard more stringent than those standards "attainable through the application of best practicable and economically sustainable technology" ("BPEST").

To understand the problems associated with Sec. 3, one must recognize that the federal Clean Water Act ("CWA"), 33 U.S.C. § 1251 et seq., establishes a comprehensive scheme for the control and abatement of water pollution. Under the doctrine of supremacy, where a state law conflicts with a federal law the federal law preempts the state law and the state law becomes void. See United States Constitution, Art. VI, cl.2. SCS CSHB 627 (Res.) appears to conflict with several major provisions of the CWA.

CWA § 301(b)(2)(A) imposes an attainability requirement different from BPEST. CWA § 301(b)(2)(a) requires "application of the best available technology economically achievable [BATEA] ... which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants." By its terms, the BPEST attainability requirement appears less stringent than the federally-mandated BATEA attainability requirement. Hence, the BPEST requirement conflicts with the CWA BATEA requirement and would be preempted.

Aside from the preemption problem, adoption of SCS CSHB 627 (Res.) would assure that the state could not assume control of the CWA National Pollution Discharge Elimination System (NPDES) permit process. CWA § 402(b) authorizes states to assume, subject to EPA approval, EPA's NPDES permit issuance functions. Alaska's placer mining community has long sought state assumption of the NPDES process from EPA. However, CWA §

1/ Appropriation of water occurs through the process set forth in the Alaska Water Use Act, AS 46.15. The appropriation of state waters for placer mining purposes is commonplace and occurs via the "tri-agency application" process.

402(b) provides that EPA cannot approve state assumption of the NPDES process if the state lacks legal authority to issue permits which "insure compliance" with various provisions of the CWA. Under CWA § 402(b), before the state can assume the NPDES process, the state must possess legal authority to issue permits that insure compliance with federally-adopted BATEA limits (CWA § 301) and with federally-adopted national performance standards (CWA § 306). Under CWA § 402(b), before the state can assume the NPDES process, the state must also possess legal authority to "abate violations of the [NPDES] permit." SCS CSHB 627 (Res.) would remove the state's legal authority to "insure compliance" with or "abate violations" of any permit or water quality standard more stringent than BPEST. In the absence of adequate state legal authority, EPA could not transfer the NPDES program to the state.

SCS CSHB 627 (Res.) also constitutes a de facto revision of existing state water quality standards. This legislative revision would occur because the bill effectively nullifies any existing state water quality standard which is more stringent than BPEST. Such an attempt to revise existing state water quality standards violates the CWA. The CWA establishes specific requirements for the revision of existing state water quality standards. CWA § 303(c) provides that whenever the state revises water quality standards, the state must submit the revised standards to EPA for approval. Under 40 C.F.R. Part 131, state water quality standards cannot be revised unless the water uses sought to be excluded (i) do not currently exist, and (ii) are not attainable through the imposition of BATEA-based effluent limits and national performance standards. 40 C.F.R. § 131.10. To determine the non-attainability of a use, a use attainability analysis usually must be performed. 40 C.F.R. § 131.10(j). Also, before water quality standards may be revised, the state must hold public hearings in conformity with EPA hearing requirements. 40 C.F.R. § 131.20(b).

If EPA determines that the state's attempted revision of water quality standards fails to conform to the CWA requirements, federal law requires that EPA "shall promptly prepare and promulgate such standard[s]" for the state. 40 C.F.R. § 131.22(a). Thus, to the extent EPA construes SCS CSHB 627 (Res.) as an attempt to unlawfully revise state water quality standards, the bill opens the door to the imposition upon Alaska of federally-mandated water quality standards by EPA.

In addition, SCS CSHB 627 (Res.) would hamper the state's ability to certify NPDES permits. 2/ SCS CSHB 627 (Res.) would preclude the state from certifying NPDES permits which contain terms based on existing water quality standards if the standards are more stringent than BPEST. The bill could force the state to waive the state's certification opportunity, and thereby forfeit the major opportunity for the state to influence the federal permit adoption process. Waiver of certification would leave the entire NPDES permit adoption process to EPA. Since a certified NPDES permit also serves as the state discharge permit required by AS 46.03.100, waiver of certification would force the state to promulgate its own discharge permits -- a lengthy and expensive process.

SCS CSHB 627 (Res.) would also damage the state's ability to work with the federal government toward fair and reasonable enforcement of placer mining water quality violations. The EPA assistant regional administrator for Alaska, Al Ewing, informs us that, from EPA's perspective, adoption of SCS CSHB 627 (Res.) would remove the state from cooperative federal/state placer mining enforcement efforts. Such removal would cut off state input into EPA's placer mining enforcement decisions, and would eliminate the state's opportunity to incorporate Alaskan concerns into the enforcement decision process.

Other sections of SCS CSHB 627 (Res.) also impact the existing regulatory structure. Section 1 of SCS CSHB 627 (Res.) might impair the Department of Fish and Game's ability to regulate placer mining activities and to otherwise protect waters "important for the spawning, rearing, and migration of anadromous fish" under AS 16.05.870. Section 2 of SCS CSHB 627 (Res.) would, in broad terms, prohibit DNR from any regulation of appropriated waters. Such a prohibition might restrict DNR's regulatory authority under the Water Use Act, AS 46.15.

2/ CWA § 401(a) and 40 C.F.R. § 124.53(a)-(c) provide the state with an opportunity to review and certify NPDES permits prior to issuance of the final permits by EPA.

Honorable Arliss Sturgulewski
SCS CSHB No. 627 (Resources)

April 22, 1986
Page 5

If you have any questions concerning our analysis of
SCS CSHB 627 (Res.) please contact us. Thank you for your
consideration.

HAROLD M. BROWN
ATTORNEY GENERAL

By:



John A. McDonagh
Assistant Attorney General

JAM/ja

cc: William Ross, Commissioner
Dept. of Environmental Conservation
Ronald Lorensen, Deputy Attorney General
Department of Law

Almost every permitting activity (especially those in or adjacent to streams) the Habitat Division is involved with includes an aspect of water pollution control and abatement to protect fish and fish habitat through implementation of AS Title 16. General examples of erosion control actions to protect fish habitat that the Habitat Division has been recently involved in include:

1. Utility and pipeline crossings of anadromous streams where we assist contractors with information on fluming techniques and channel diversions.
2. Bank stabilization projects where we assist property owners in designing projects to prevent erosion while maintaining fish habitat.

Specific examples of projects the division has protected fish streams through implementation of AS 16 include:

1. The Anchorage Water and Wastewater Utility (AWWU) project to construct a sewerline across Campbell Creek (FG 84-II-0474). The department assisted the AWWU in designing a channel diversion to reduce the transportation of sediments into Campbell Creek thereby protecting fish habitat.
2. The AWWU project to construct a sewerline across Campbell Creek (FG 85-II-0138). The department

assisted the AWWU in designing a flume and coffer dam system to almost totally prevent impacts to fish habitat of the creek.

3. The AWWU project to construct the Potter pump station adjacent to Potter Marsh. This project resulted in pollution of the Marsh but with department assistance, sedimentation of Marsh habitats was reduced and eventually eliminated.
4. The Alaska Diversified Properties project to construct the Potter Creek subdivision above Potter Marsh. This project resulted in pollution of both the Marsh and Potter Creek. Working with the Corps of Engineers (CE) and the developer, the department was able to correct most of the major erosion problems through reducing impacts to fish and wildlife habitats of Potter Marsh and Potter Creek. We will be assisting the developer in cleaning out Potter Creek this spring.
5. The AWWU Abbott 30-inch waterline crossing of both the North and South Forks of Campbell Creek (FG 83-II-0216). The department assisted the contractor in developing a fluming technique to prevent impacts to fish habitat allow winter construction.

6. The Salamatof Native Corporation project to drain wetlands adjacent to the Kenai River (Kenai River 118). Ditches were constructed which drained into the river and resulted in water pollution. The department worked with the developer to design a system of ditch treatments which eliminated most of the water pollution problem in the Kenai River and thereby protect fish habitats and the recreational fishery.
7. Construction of the Enstar Beluga to Anchorage gas pipeline (FG 83-II-0090) which crossed 28 anadromous streams. The department worked with Enstar to design channel diversions, flumes and borings to avoid impacts to fish and wildlife habitat. We also assisted in the development of a revegetation and erosion control plan to prevent long-term erosion of stream banks.
8. Hyer Park Subdivision - Kim and Terry Griswold/Bill Nelson. This project resulted in the complete removal of all vegetation along a reach of Wasilla Creek for commercial and residential development. The ADF&G has worked with the applicant and contractor to design adequate revegetation efforts to preclude reduction of coho salmon spawning and rearing habitat which occurs

along this reach. This remedial action has been coordinated closely with the Matanuska-Susitna Borough (MSB) planning staff.

9. Mariah Subdivision - Campbell Creek Realignment. This project was designed to provide for subdivision development while modifying the existing stream channel which is an important coho salmon rearing area. The ADF&G assisted the contractor in the design and monitored construction of the project. The new alignment will preclude impacts to the fish stream from urban runoff and siltation.

10. West Interceptor Sewerline Project - Municipality of Anchorage (MOA). The ADF&G worked closely with the MOA to design an effective methodology to bore beneath Campbell Creek to install a 78-inch diameter sewer connector line. This crossing occurred in known chinook salmon spawning habitat. The ADF&G also monitored the project which included a temporary diversion of the entire flow of this creek to ensure water quality and spawning habitat were maintained. The end project resulted in the expansion of spawning habitat and the revegetation of disturbed stream banks.



Alaska Sportfishing Association

3605 Arctic Blvd., Suite 800 • Anchorage, Alaska 99503

April 28, 1986

Senator Arliss Sturgulewski
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski:

*Talked to Russ
on telephone -
4/28/86
are changing CS -
MCA*

The Alaska Sportfishing Association opposes the Senate Resources Committee substitute to HB 627, which would amend AS 16.05.930 and remove the Commissioner of Fish and Game's authority to regulate water quality under Alaska Statutes Title 16.

Since statehood, Alaska statutes 16.05.840 and 16.05.870 have mandated that the Department of Fish and Game maintain and protect fish passage, integrity of the stream bed and banks, and the quality and quantity of water in Alaska's streams. No other department reviews activities specifically for the impact they would have on anadromous fish and provides protection for fish that are economically and recreationally important to Alaskans.

Our members, and thousands of other Alaskans, depend upon anadromous fish for their recreation and, in many cases, their livelihood. The experts on anadromous fish, anadromous fish habitat, and the needs of fishermen are in the Department of Fish and Game, not some other state agency.

In recent years we have seen the threat to anadromous streams increase dramatically and we feel strongly that the Department of Fish and Game must continue to be actively and directly involved in the regulation of those who would pollute anadromous fish habitat.

We recommend that if your committee pursues this legislation that you hold a statewide teleconference to provide add residents with the opportunity to express their opinion on this vital issue.

Thank you for your consideration in addressing our concerns.

Sincerely,

Russ Redick
R. Russell Redick
Executive Director

cc: Senate Resources Committee Members
Fish & Game Commissioner Collinsworth

Bradley ✓
4/18/86

*Miller's
Resource Dev. Council*

Original sponsor: M.W. Miller by request

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 627 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

*Miller's
Resource Dev. Council*

6 For an Act entitled: "An Act relating to the appropriation of water."

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

8 * Section 1. AS 16.05.930 ^{ENR} is amended by adding a new subsection to

9 read:

10 (g) The commissioner may not regulate the quality of the water

11 when it is regulated under AS 46.03.892. ~~DEC.~~

12 * Sec. 2. AS 38.05.020 is amended by adding a new subsection to read:

13 (c) The commissioner may not regulate the quality of the water

14 when it is regulated under AS 46.03.892.

15 * Sec. 3. AS 46.03 is amended by adding a new section to read:

16 Sec. 46.03.892. REGULATION OF APPROPRIATED WATER. (a) When

17 considering the quality of appropriated water and establishing regu-

18 lations for the quality of appropriated water, the commissioner may

19 require a person who appropriates water to meet a standard that is

20 equal to but not higher than a standard attainable through the appli-

21 cation of best practicable and economically sustainable technology

22 associated with the particular use.

23 (b) The commissioner may not require a higher discharge quality

24 standard for appropriated water than the quality of water received for

25 use.

26 * Sec. 4. AS 46.15 is amended by adding a new section to read:

27 Sec. 46.15.045. SMALL SCALE USE OF WATER. A person may use less

28 than a significant amount of water without a permit unless the commis-

29 sioner determines under AS 46.15.080(b) that the use of less than a

check w/ EPA re 7th \$10 pollution control

*read:
more pertinent
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amendments*

1 significant amount of water without a permit is not in the public
2 interest. A person using less than a significant amount of water
3 without a permit acquires no water right or priority unless an appli-
4 cation is filed and a permit or certificate is issued under AS 46.15.-
5 030 - 46.15.185.

6 * Sec. 5. AS 46.15.133(f) is amended to read:

7 (f) The commissioner may, by regulation, designate additional
8 types of appropriations that [WHICH] are exempt from this section and
9 provide simplified procedures for ruling on the applications.

10 * Sec. 6. AS 46.15.133 is amended by adding a new subsection to read:

11 (g) An application to appropriate not more than 1,000 gallons of
12 water a day is exempt from the notice provisions of this section
13 except that the commissioner shall notify the Department of Fish and
14 Game of each application to appropriate water from a stream designated
15 under AS 16.05.870. Notwithstanding this subsection, the commissioner
16 may require public notice under this section

17 (1) on a determination that the total amount of water
18 available in an area is limited considering the number of potential
19 users from the source of the water; or

20 (2) on request of the municipality in which the area is
21 located.

22 * Sec. 7. AS 46.15.260 is amended to read:

23 Sec. 46.15.260. DEFINITIONS. In this chapter, unless the
24 context otherwise requires,

25 (1) "appropriate" means

26 (A) to divert, impound, or withdraw a quantity of
27 water from a source of water, for a beneficial use; or

28 (B) to reserve water under [IN ACCORDANCE WITH]
29 AS 46.15.145;

1 (2) "appropriation" means

2 (A) the diversion, impounding, or withdrawal of a
3 quantity of water from a source of water for a beneficial use; or

4 (B) the reservation of water under [IN ACCORDANCE
5 WITH] AS 46.15.145;

6 (3) "beneficial use" means a use of water for the benefit
7 of the appropriator, other persons or the public, that is reasonable
8 and consistent with the public interest, including, but not limited
9 to, domestic, agricultural, irrigation, industrial, manufacturing,
10 fish and shellfish processing, navigation and transportation, mining,
11 power, public, sanitary, fish and wildlife, recreational uses, and
12 maintenance of water quality;

13 (4) "source of water" means a substantial quantity of water
14 capable of being put to beneficial use;

15 (5) "water" means all water of the state, surface and
16 subsurface, occurring in a natural state, except mineral and medicinal
17 water;

18 (6) "commissioner" means the commissioner of natural re-
19 sources;

20 (7) "director" means the director of land and water manage-
21 ment [THE DIVISION OF LANDS], Department of Natural Resources;

22 (8) "person" includes an individual, partnership, asso-
23 ciation, public or private corporation, state agency, municipality
24 [POLITICAL SUBDIVISION] of the state, and the United States; [.]

25 (9) "mineral and medicinal water" means

26 (A) water of a hot spring or spring with curative
27 properties that [WHICH] has been reserved by the federal govern-
28 ment under Public Land Order No. 399; and

29 (B) geothermal fluid, as [THE TERM IS] defined in

1 AS 41.06.060;

2 (10) "significant amount of water" means

3 (A) a use of more than 5,000 gallons of water in a
4 single day from a single source; or

5 (B) the regular daily or recurring seasonal use of
6 more than 500 gallons of water a day for 10 days or more a year
7 from a single source; or

8 (C) a water use that may adversely affect the water
9 rights of another appropriator or the public interest.

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Bradley
4/29/86

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M
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Original sponsor: M.W.Miller by request

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 627 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the appropriation of water."

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

8 * Section 1. AS 16.05.050 is amended by adding a new subsection to
9 read:

10 (b) The commissioner may not require a higher discharge quality
11 for appropriated water than the quality of water received for use.

12 * Sec. 2. AS 38.05.020 is amended by adding a new subsection to read:

13 (c) The commissioner may not require a higher discharge quality
14 for appropriated water than the quality of water received for use.

15 * Sec. 3. AS 46.03 is amended by adding a new section to read:

16 Sec. 46.03.892. REGULATION OF APPROPRIATED WATER. When enforc-
17 ing the law or regulations for the quality of appropriated water, the
18 commissioner may not require a higher discharge quality for appropri-
19 ated water than the quality of water received for use.

20 * Sec. 4. AS 46.15 is amended by adding a new section to read:

21 Sec. 46.15.045. SMALL SCALE USE OF WATER. A person may use less
22 than a significant amount of water without a permit unless the commis-
23 sioner determines under AS 46.15.080(b) that the use of less than a
24 significant amount of water without a permit is not in the public
25 interest. A person using less than a significant amount of water
26 without a permit acquires no water right or priority unless an appli-
27 cation is filed and a permit or certificate is issued under AS 46.15.-
28 030 - 46.15.185.

29 * Sec. 5. AS 46.15.133(f) is amended to read:

1 (f) The commissioner may, by regulation, designate additional
2 types of appropriations that [WHICH] are exempt from this section and
3 provide simplified procedures for ruling on the applications.

4 * Sec. 6. AS 46.15.133 is amended by adding a new subsection to read:

5 (g) An application to appropriate not more than 1,000 gallons of
6 water a day is exempt from the notice provisions of this section
7 except that the commissioner shall notify the Department of Fish and
8 Game of each application to appropriate water from a stream designated
9 under AS 16.05.870. Notwithstanding this subsection, the commissioner
10 may require public notice under this section

11 (1) on a determination that the total amount of water
12 available in an area is limited considering the number of potential
13 users from the source of the water; or

14 (2) on request of the municipality in which the area is
15 located.

16 * Sec. 7. AS 46.15.260 is amended to read:

17 Sec. 46.15.260. DEFINITIONS. In this chapter, unless the con-
18 text otherwise requires,

19 (1) "appropriate" means

20 (A) to divert, impound, or withdraw a quantity of
21 water from a source of water, for a beneficial use; or

22 (B) to reserve water under [IN ACCORDANCE WITH]
23 AS 46.15.145;

24 (2) "appropriation" means

25 (A) the diversion, impounding, or withdrawal of a
26 quantity of water from a source of water for a beneficial use; or

27 (B) the reservation of water under [IN ACCORDANCE
28 WITH] AS 46.15.145;

29 (3) "beneficial use" means a use of water for the benefit

1 of the appropriator, other persons or the public, that is reasonable
2 and consistent with the public interest, including, but not limited
3 to, domestic, agricultural, irrigation, industrial, manufacturing,
4 fish and shellfish processing, navigation and transportation, mining,
5 power, public, sanitary, fish and wildlife, recreational uses, and
6 maintenance of water quality;

7 (4) "source of water" means a substantial quantity of water
8 capable of being put to beneficial use;

9 (5) "water" means all water of the state, surface and
10 subsurface, occurring in a natural state, except mineral and medicinal
11 water;

12 (6) "commissioner" means the commissioner of natural re-
13 sources;

14 (7) "director" means the director of land and water manage-
15 ment [THE DIVISION OF LANDS], Department of Natural Resources;

16 (8) "person" includes an individual, partnership, asso-
17 ciation, public or private corporation, state agency, municipality
18 [POLITICAL SUBDIVISION] of the state, and the United States; [.]

19 (9) "mineral and medicinal water" means

20 (A) water of a hot spring or spring with curative
21 properties that [WHICH] has been reserved by the federal govern-
22 ment under Public Land Order No. 399; and

23 (B) geothermal fluid, as [THE TERM IS] defined in
24 AS 41.06.060;

25 (10) "significant amount of water" means

26 (A) a use of more than 5,000 gallons of water in a
27 single day from a single source; or

28 (B) the regular daily or recurring seasonal use of
29 more than 500 gallons of water a day for 10 days or more a year

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from a single source; or

(C) a water use that may adversely affect the water rights of another appropriator or the public interest.

* Sec. 8. AS 16.05.930(g), AS 38.05.020(c), and AS 46.03.892 are repealed on the date the state assumes responsibility for the pollutant discharge elimination program authorized by sec. 402 of the Act of June 30, 1948, 33 U.S.C. 1342.

Bradley
4/29/86

~~_____~~
~~_____~~

Original sponsor: M.W.Miller by request

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 627 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the appropriation of water."

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

8 * Section 1. AS 16.05.050 is amended by adding a new subsection to
9 read:

10 (b) The commissioner may not require a higher discharge quality
11 for appropriated water than the quality of water received for use.

12 * Sec. 2. AS 38.05.020 is amended by adding a new subsection to read:

13 (c) The commissioner may not require a higher discharge quality
14 for appropriated water than the quality of water received for use.

15 * Sec. 3. AS 46.03 is amended by adding a new section to read:

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18 commissioner may not require a higher discharge quality for appropri-
19 ated water than the quality of water received for use.

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22 than a significant amount of water without a permit unless the commis-
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24 significant amount of water without a permit is not in the public
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26 without a permit acquires no water right or priority unless an appli-
27 cation is filed and a permit or certificate is issued under AS 46.15.-
28 030 - 46.15.185.

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2 types of appropriations that [WHICH] are exempt from this section and
3 provide simplified procedures for ruling on the applications.

4 * Sec. 6. AS 46.15.133 is amended by adding a new subsection to read:

5 (g) An application to appropriate not more than 1,000 gallons of
6 water a day is exempt from the notice provisions of this section
7 except that the commissioner shall notify the Department of Fish and
8 Game of each application to appropriate water from a stream designated
9 under AS 16.05.870. Notwithstanding this subsection, the commissioner
10 may require public notice under this section

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12 available in an area is limited considering the number of potential
13 users from the source of the water; or

14 (2) on request of the municipality in which the area is
15 located.

16 * Sec. 7. AS 46.15.260 is amended to read:

17 Sec. 46.15.260. DEFINITIONS. In this chapter, unless the con-
18 text otherwise requires,

19 (1) "appropriate" means

20 (A) to divert, impound, or withdraw a quantity of
21 water from a source of water, for a beneficial use; or

22 (B) to reserve water under [IN ACCORDANCE WITH]
23 AS 46.15.145;

24 (2) "appropriation" means

25 (A) the diversion, impounding, or withdrawal of a
26 quantity of water from a source of water for a beneficial use; or

27 (B) the reservation of water under [IN ACCORDANCE
28 WITH] AS 46.15.145;

29 (3) "beneficial use" means a use of water for the benefit

1 of the appropriator, other persons or the public, that is reasonable
2 and consistent with the public interest, including, but not limited
3 to, domestic, agricultural, irrigation, industrial, manufacturing,
4 fish and shellfish processing, navigation and transportation, mining,
5 power, public, sanitary, fish and wildlife, recreational uses, and
6 maintenance of water quality;

7 (4) "source of water" means a substantial quantity of water
8 capable of being put to beneficial use;

9 (5) "water" means all water of the state, surface and
10 subsurface, occurring in a natural state, except mineral and medicinal
11 water;

12 (6) "commissioner" means the commissioner of natural re-
13 sources;

14 (7) "director" means the director of land and water manage-
15 ment [THE DIVISION OF LANDS], Department of Natural Resources;

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17 ciation, public or private corporation, state agency, municipality
18 [POLITICAL SUBDIVISION] of the state, and the United States; [.]

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21 properties that [WHICH] has been reserved by the federal govern-
22 ment under Public Land Order No. 399; and

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27 single day from a single source; or

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29 more than 500 gallons of water a day for 10 days or more a year

1 from a single source; or

2 (C) a water use that may adversely affect the water
3 rights of another appropriator or the public interest.

4 * Sec. 8. AS 16.05.930(g), AS 38.05.020(c), and AS 46.03.892 are re-
5 pealed on the date the state ^{osd b} assumes responsibility for the pollutant dis-
6 charge elimination program authorized by sec. 402 of the Act of June 30,
7 1948, 33 U.S.C. 1342.

Offered: 5/1/86
Referred: Rules

Original sponsor: M.W.Miller by request

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 627 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL
6 For an Act entitled: "An Act relating to the appropriation of water."

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

8 * Section 1. AS 16.05.050 is amended by adding a new subsection to
9 read:

10 (b) The commissioner may not require a higher discharge quality
11 for appropriated water used in placer mining than the quality of water
12 received for the use.

13 * Sec. 2. AS 38.05.020 is amended by adding a new subsection to read:

14 (c) The commissioner may not require a higher discharge quality
15 for appropriated water used in placer mining than the quality of water
16 received for the use.

17 * Sec. 3. AS 46.03 is amended by adding a new section to read:

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19 ing the law or regulations for the quality of appropriated water used
20 in placer mining, the commissioner may not require a higher discharge
21 quality for appropriated water than the quality of water received for
22 the use.

23 * Sec. 4. AS 46.15 is amended by adding a new section to read:

24 Sec. 46.15.045. SMALL SCALE USE OF WATER. A person may use less
25 than a significant amount of water without a permit unless the commis-
26 sioner determines under AS 46.15.080(b) that the use of less than a
27 significant amount of water without a permit is not in the public
28 interest. A person using less than a significant amount of water
29 without a permit acquires no water right or priority unless an

Handwritten notes:
of act for "appropriated water"
"water" (see title)
Appeals - amendments
Same as SB 46
which primarily
changed it
did it
art. 2 further

1 application is filed and a permit or certificate is issued under
2 AS 46.15.030 - 46.15.185.

3 * Sec. 5. AS 46.15.133(f) is amended to read:

4 (f) The commissioner may, by regulation, designate additional
5 types of appropriations that [WHICH] are exempt from this section and
6 provide simplified procedures for ruling on the applications.

7 * Sec. 6. AS 46.15.133 is amended by adding a new subsection to read:

8 (g) An application to appropriate not more than 1,000 gallons of
9 water a day is exempt from the notice provisions of this section
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11 Game of each application to appropriate water from a stream designated
12 under AS 16.05.870. Notwithstanding this subsection, the commissioner
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14 (1) on a determination that the total amount of water
15 available in an area is limited considering the number of potential
16 users from the source of the water; or

17 (2) on request of the municipality in which the area is
18 located.

19 * Sec. 7. AS 46.15.260 is amended to read:

20 Sec. 46.15.260. DEFINITIONS. In this chapter, unless the con-
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22 (1) "appropriate" means

23 (A) to divert, impound, or withdraw a quantity of
24 water from a source of water, for a beneficial use; or

25 (B) to reserve water under [IN ACCORDANCE WITH]
26 AS 46.15.145;

27 (2) "appropriation" means

28 (A) the diversion, impounding, or withdrawal of a
29 quantity of water from a source of water for a beneficial use; or

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2 WITH] AS 46.15.145;

3 (3) "beneficial use" means a use of water for the benefit
4 of the appropriator, other persons or the public, that is reasonable
5 and consistent with the public interest, including, but not limited
6 to, domestic, agricultural, irrigation, industrial, manufacturing,
7 fish and shellfish processing, navigation and transportation, mining,
8 power, public, sanitary, fish and wildlife, recreational uses, and
9 maintenance of water quality;

10 (4) "source of water" means a substantial quantity of water
11 capable of being put to beneficial use;

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27 AS 41.06.060;

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6 rights of another appropriator or the public interest.

7 * Sec. 8. AS 16.05.050(b), AS 38.05.020(c), and AS 46.03.892 are re-
8 pealed on the date the state assumes responsibility for the pollutant dis-
9 charge elimination program authorized by sec. 402 of the Act of June 30,
10 1948, 33 U.S.C. 1342.

Introduced: 3/5/86
Referred: Resources

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

SENATE BILL NO. 460

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to regulation of water quality in
7 placer mining."

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

9 * Section 1. AS 16.05.930 is amended by adding a new subsection to
10 read:

11 (g) The commissioner may not require a person engaged in placer
12 mining to discharge water used in the placer mining with a higher
13 quality than the water initially received for use in the placer min-
14 ing.

15 * Sec. 2. AS 38.95 is amended by adding a new section to read:

16 ARTICLE 5. WATER QUALITY IN PLACER MINING.

17 Sec. 38.95.180. PLACER MINING WATER QUALITY REGULATION. The
18 commissioner may not require a person engaged in placer mining to
19 discharge water used in the placer mining with a higher quality than
20 the water initially received for use in the placer mining.

21 * Sec. 3. AS 46.03 is amended by adding a new section to read:

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23 commissioner may not require a person engaged in placer mining to
24 discharge water used in the placer mining with a higher quality than
25 the water initially received for use in the placer mining.

*Rep. Miller
make
Chil Holdsworth*

Bradley ✓
4/18/86

Original sponsor: M.W.Miller by request

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 627 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the appropriation of water."

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6 more than 500 gallons of water a day for 10 days or more a year
7 from a single source; or

8 (C) a water use that may adversely affect the water
9 rights of another appropriator or the public interest.

Bradley ✓
4/18/86

Original sponsor: M.W.Miller by request

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 627 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the appropriation of water."

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

8 * Section 1. AS 16.05.930 is amended by adding a new subsection to
9 read:

*7-21-86
Cable copy of
DEC doc*

10 (g) The commissioner may not regulate the quality of the water
11 when it is regulated under AS 46.03.892.

12 * Sec. 2. AS 38.05.020 is amended by adding a new subsection to read:

13 (c) The commissioner may not regulate the quality of the water
14 when it is regulated under AS 46.03.892.

15 * Sec. 3. AS 46.03 is amended by adding a new section to read:

16 Sec. 46.03.892. REGULATION OF APPROPRIATED WATER. (a) When
17 considering the quality of appropriated water and establishing regu-
18 lations for the quality of appropriated water, the commissioner may
19 require a person who appropriates water to meet a standard that is
20 equal to but not higher than a standard attainable through the appli-
21 cation of best practicable and economically sustainable technology
22 associated with the particular use.

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Having 19 members
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of the 5th court

23 (b) The commissioner may not require a higher discharge quality
24 standard for appropriated water than the quality of water received for
25 use.

26 * Sec. 4. AS 46.15 is amended by adding a new section to read:

27 Sec. 46.15.045. SMALL SCALE USE OF WATER. A person may use less
28 than a significant amount of water without a permit unless the commis-
29 sioner determines under AS 46.15.080(b) that the use of less than a

1 significant amount of water without a permit is not in the public
2 interest. A person using less than a significant amount of water
3 without a permit acquires no water right or priority unless an appli-
4 cation is filed and a permit or certificate is issued under AS 46.15.-
5 030 - 46.15.185.

6 * Sec. 5. AS 46.15.133(f) is amended to read:

7 (f) The commissioner may, by regulation, designate additional
8 types of appropriations that [WHICH] are exempt from this section and
9 provide simplified procedures for ruling on the applications.

10 * Sec. 6. AS 46.15.133 is amended by adding a new subsection to read:

11 (g) An application to appropriate not more than 1,000 gallons of
12 water a day is exempt from the notice provisions of this section
13 except that the commissioner shall notify the Department of Fish and
14 Game of each application to appropriate water from a stream designated
15 under AS 16.05.870. Notwithstanding this subsection, the commissioner
16 may require public notice under this section

17 (1) on a determination that the total amount of water
18 available in an area is limited considering the number of potential
19 users from the source of the water; or

20 (2) on request of the municipality in which the area is
21 located.

22 * Sec. 7. AS 46.15.260 is amended to read:

23 Sec. 46.15.260. DEFINITIONS. In this chapter, unless the
24 context otherwise requires,

25 (1) "appropriate" means

26 (A) to divert, impound, or withdraw a quantity of
27 water from a source of water, for a beneficial use; or

28 (B) to reserve water under [IN ACCORDANCE WITH]

29 AS 46.15.145;

1 (2) "appropriation" means

2 (A) the diversion, impounding, or withdrawal of a
3 quantity of water from a source of water for a beneficial use; or

4 (B) the reservation of water under [IN ACCORDANCE
5 WITH] AS 46.15.145;

6 (3) "beneficial use" means a use of water for the benefit
7 of the appropriator, other persons or the public, that is reasonable
8 and consistent with the public interest, including, but not limited
9 to, domestic, agricultural, irrigation, industrial, manufacturing,
10 fish and shellfish processing, navigation and transportation, mining,
11 power, public, sanitary, fish and wildlife, recreational uses, and
12 maintenance of water quality;

13 (4) "source of water" means a substantial quantity of water
14 capable of being put to beneficial use;

15 (5) "water" means all water of the state, surface and
16 subsurface, occurring in a natural state, except mineral and medicinal
17 water;

18 (6) "commissioner" means the commissioner of natural re-
19 sources;

20 (7) "director" means the director of land and water manage-
21 ment [THE DIVISION OF LANDS], Department of Natural Resources;

22 (8) "person" includes an individual, partnership, asso-
23 ciation, public or private corporation, state agency, municipality
24 [POLITICAL SUBDIVISION] of the state, and the United States; [.]

25 (9) "mineral and medicinal water" means

26 (A) water of a hot spring or spring with curative
27 properties that [WHICH] has been reserved by the federal govern-
28 ment under Public Land Order No. 399; and

29 (B) geothermal fluid, as [THE TERM IS] defined in

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AS 41.06.060;

(10) "significant amount of water" means

(A) a use of more than 5,000 gallons of water in a single day from a single source; or

(B) the regular daily or recurring seasonal use of more than 500 gallons of water a day for 10 days or more a year from a single source; or

(C) a water use that may adversely affect the water rights of another appropriator or the public interest.



Resource Development Council

for Alaska, Inc.

807 "G" Street, Suite 200, Anchorage, Alaska 99501-3440
Box 100516, Anchorage, Alaska 99510-0516 - 907/276-0700

RED ALERT

Reasonable Water Quality Legislation Needs Your Help!!

Please contact Governor Sheffield's office immediately and make him aware of your support for reasonable water quality measures for Alaska.

HB 627 allows the administration to take positive action to support the growth of the important Alaska mining industry. We need this new law to give reasonable direction to the Department of Environmental Conservation.

The Governor is presently considering HB 627 and is receiving pressure to veto this bill. The mining industry, and all other water users in Alaska, cannot bear yet another setback at this time.

This legislation will straighten out many of the serious water use problems facing Alaska today. HB 627 will not place the state out of compliance with federal standards. It will not make it harder for the state to assume control of federal water quality programs.

Contact the Governor by phone or public opinion message right away and ask him to do something positive for our economy by signing HB 627.

Governor's Office 465-3500

POM's

Anch 278-3668

Fbx 452-4448

RED ALERT

Offered: 4/7/86
Referred: Rules

Original sponsor: M.W.Miller by request

ML

1 IN THE HOUSE BY THE RULES COMMITTEE
2 CS FOR HOUSE BILL NO. 627 (Rules)(title am)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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