

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5010 HRES SB 167 - SB 190

58

6. Projects constructed before year 1995 will meet Title II of the Act [see attached summary].
7. Expend in accordance with laws and procedures applicable to State.
8. Use accounting, audit, and fiscal procedures generally accepted government standards.
9. State will require recipient's records to meet generally accepted government standards.
10. State will make annual reports to EPA administrator.

Sec 603 - WATER POLLUTION CONTROL REVOLVING LOAN FUNDS

- a) First establish a revolving fund complying with this section.
- b) Fund will be administered by an instrumentality of the State, with powers to operate fund in accordance with the Act.
- c) Projects eligible for assistance
  1. To any municipality, intermunicipal, interstate, or State agency for construction of publically owned treatment works
  2. Sec 319 implementation
  3. Sec 320 implementation

d) Types of Assistance

1. Loans on the condition that
  - A) At or below market interest rate, not to exceed 20 years.
  - B) Annual principal and interest will commence not later than one year and will be amortized not later than 20 years.
  - C) Receipts will establish a dedicated source of revenue for repayment of loans; and
  - D) Funds will be credited with all payments.
2. Buy or refinance loan debt where obligations incurred after March 7, 1988.
3. Guarantee or purchase insurance for local obligations when it improves market access or reduce interest rates.
4. As a source of revenue or surity for revenue or general obligation bonds
5. To provide loan guarantees
6. To earn interest
7. For administering funds not to exceed 4 percent

g) Priority list requirements

1. Must be on list developed under Sec 216
2. Regardless of the ranking on list

Sec 604 - ALLOTMENT OF FUNDS

- b) one percent, or \$100,000, for Sec 205(j) and 303(e)
- c) 1. Period of availability for grant award during fiscal year authorized and following year
- 2. Reallocation of unobligated funds
  - A. Administrator (EPA) will reallocate if not obligated at end of second year.
  - B. No funds if State has not obligated within first year.

Sec 605 - CORRECTIVE ACTION

Sec 606 - AUDITS, REPORTS, AND FISCAL CONTROLS

- a) Establish fiscal controls
- b) Annual federal audit
- c) Intended use plan
  - 1. List of projects
  - 2. Long and short-term goals, objectives
  - 3. Information on activities, project categories, discharge requirements under Title III and IV of the Act, terms of financial assistance, and communities served.
  - 4. Assurances and specific proposal for meeting requirements 3, 4, 5, and 6 of Sec 602(b).
  - 5. Criteria and method established for distribution of funds

d) Annual report

e) Annual federal oversight review

Sec 607 - AUTHORIZATION OF APPROPRIATIONS

1.	\$1.2 billion	1989 and 1990
2.	2.4 billion	1991
3.	1.8 billion	1992
4.	1.2 billion	1993
5.	0.6 billion	1994

1. Can we use 50 percent of construction grant in 1986 and 1987,  
and 70 percent in 1988

2. Notice Requirement

A) In 1987, no later than 90 days after Act is enacted

B) Other years, 90 days before fiscal year start

SUMMARY OF REVOLVING LOAN FUND TITLE II REQUIREMENTS

I. ELIGIBILITY RELATED PROVISIONS.

1. 201(b). Must Use Best Practicable Waste Treatment Technology.
2. 201(g)(1). Must be secondary treatment or more stringent or any cost effective alternative for the following categories:
  - new interceptors
  - I/I correction
  - Other categories determined by governor
3. 201(n)(1). Can use funds for combined sewer overflows.
4. 201(o). Encouraged to file a capital financing plan that
  - projects future requirements for  $\geq 10$  years.
  - projects nature, extent, costs, timing of future expansions.
  - sets forth financing plans for future expansions.
5. 211. No collectors unless
  - replacement/major rehab or existing systems necessary for total system integrity or;
  - new collectors in existing community with sufficient existing or planned capacity for treatment.

II. APPLICATION RELATED PROVISIONS.

1. 201(g)(2). Applicant must:
  - evaluate alternative waste treatment technology.
  - allow for application of later technology to provide for reclaiming/recycling of water.
2. 201(g)(3). Applicant must show that sewer collection system doesn't have excessive infiltration.
3. 201(g)(5). Applicant must study/evaluate
  - innovative/alternative technology.
  - reclamation reuse of water or elimination of discharge.
  - land treatment.
  - low energy usage systems.
4. 201(g)(6). Applicant must analyze open space and recreational opportunities.
5. 204(a)(1). Before approving grants, Administrator shall determine that treatment works are included in any applicable 208 plan.
6. 204(a)(2). Before approving grants, Administrator shall determine that treatment works are included in any applicable 303(e) plan.
7. 204(b)(2). Applicant must:
  - adopt a user charge system
  - demonstrate legal, managerial, & financial capability to construct/operate/maintain the treatment works.
8. 218. The applicant must
  - show the cost effective solution in the facility plan
  - use value engineering for high cost projects.
9. 511(c)(1). Projects are subject to NEPA.

III. CONSTRUCTION RELATED PROVISIONS.

1. 204(d)(2). Grantee must provide one year performance
  - certification.
2. 513. Project is subject to Davis-Bacon wage rates.

STATE OF ALASKA  
THE LEGISLATURE

INDUHY STATE CAPITOL  
BUREAU ALASKA 99511  
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 27, 1987

SUBJECT: Dedication of funds to clean water fund by  
SB 167 (Grants for water supply, sewage and  
solid waste facilities)

TO: Senator Rick Halford

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

You have asked whether the Alaska clean water loan fund created by SB 167 violates the constitutional prohibition against the dedication of state funds for a special purpose. You have provided me with a copy of Title VI (State Water Pollution Control Revolving Funds) of P.L. 100-4, amending the Federal Water Pollution Control Act (33 U.S.C. 1251 - 1376), commonly known as the Clean Water Act.

The Alaska Constitution, Article IX, Section 7, permits the state to dedicate funds "when required by the federal government for participation in federal programs." The question then is whether SB 167 creates a dedicated fund in order to participate in a federal program and whether the state program is not more extensive than the federal requirements. In my opinion, the bill complies with the requirements of the exception for a federal program.

The recent amendments to the federal Clean Water Act require that states establish revolving loan funds that meet certain standards in order to be eligible to participate in the capitalization grants. The state must establish a separate fund consisting of federal capitalization grant payments (Sec. 602(b)(1)), the required state matching funds (Sec. 602(b)(2)), loan repayments including interest (Sec. 603(d)(1)(D)), and interest earned on fund accounts (Sec. 603(d)(6)). As long as the state does not deposit more than the required state match in the fund, contributions specified in the bill should be exempt from the prohibition against dedicated funds.

1. INFLATION RATE: 4.6%
2. INTEREST ON INVESTMENTS: 9.2%
3. REVENUE BOND (per AK Bond Bank)  
= 7.3%
- ∴ INTEREST first 7 yrs on  
loans = 4.3% (2/3)
- ∴ INTEREST THEREAFTER = 0.12%
4. 20 yr AMORTIZATION PERIOD

3-31-87

****SIRF FULL 20 YEAR REPORT****	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
<b>***SOURCES OF FUNDS***</b>					
BEGINNING BALANCE		12,499,503	12,884,079	15,098,004	21,837,090
CAPITALIZATION					
Current	\$13,074,480	12,916,320	13,516,320	17,432,640	13,074,480
Cumulative	\$13,074,480	25,990,800	39,507,120	56,939,760	70,914,240
BONDS ISSUED					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
OTHER INCOME (INCLUDING PENALTIES)					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
<b>*LOAN ACTIVITY*</b>					
LOAN REPAYMENTS					
Current	\$0	0	377,929	1,902,889	2,872,751
Cumulative	\$0	0	377,929	2,880,818	5,753,569
LOAN DEFAULTS					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
NET LOAN REPAYMENTS					
Current	\$0	0	377,929	1,902,889	2,872,728
Cumulative	\$0	0	377,929	2,880,818	5,753,545
INVESTED FUNDS	\$13,074,480	12,341,343	14,462,007	20,917,213	20,351,658
Interest Rate for Invested Funds	0.20%	0.20%	0.20%	0.20%	0.20%
Interest on Invested Funds	\$0	\$1,135,404	\$1,330,505	\$1,324,384	\$1,872,353
<b>**TOTAL SOURCES OF FUNDS**</b>					
Current	\$13,074,480	26,551,225	28,708,832	36,357,917	39,656,651
Cumulative	\$13,074,480	39,625,706	68,334,538	104,692,455	144,349,106
<b>***USES OF FUNDS***</b>					
BOND RETIREMENT					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
TOTAL BOND INSURANCE FEE	\$0	0	0	0	0
<b>---LOAN ACTIVITY---</b>					
LOANS MADE					
Current	\$0	13,074,480	12,366,320	12,366,320	16,982,640
Cumulative	\$0	13,074,480	25,440,800	38,407,120	55,289,760
GRANTS MADE					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
TOTAL LOANS & GRANTS MADE					
Current	\$0	13,074,480	12,366,320	12,366,320	16,982,640
Cumulative	\$0	13,074,480	25,440,800	38,407,120	55,289,760
ADMINISTRATIVE/OPERATIONAL COSTS	\$0	\$0	\$550,000	\$550,000	\$550,000
<b>**TOTAL USES OF FUNDS**</b>					
Current	\$0	13,074,480	12,916,320	13,516,320	17,432,640
Cumulative	\$0	13,074,480	25,990,800	39,507,120	56,939,760
<b>****FUND BALANCE**** (END OF YEAR)</b>	\$13,074,480	\$13,476,746	\$15,792,512	\$22,941,597	\$22,224,311
<b>***INFLATION ANALYSIS OF FUND***</b>					
INFLATION RATE	4.50%	4.50%	4.50%	4.50%	4.50%
CONSTANT DOLLARS	\$12,499,503	12,384,079	15,098,004	21,837,090	21,246,664

\*\*\*\*\*SIRF FULL 20 YEAR REPORT\*\*\*\*\*

	YEAR 11	YEAR 12	YEAR 13	YEAR 14	YEAR 15
<b>***SOURCES OF FUNDS***</b>					
BEGINNING BALANCE	6,957,597	4,234,212	1,954,184	754,599	474,178
CAPITALIZATION					
Current	0	0	0	0	0
Cumulative	93,888,720	93,888,720	93,888,720	93,888,720	93,888,720
BONDS ISSUED					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
OTHER INCOME (INCLUDING PENALTIES)					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
*LOAN ACTIVITY*					
LOAN REPAYMENTS					
Current	8,706,676	9,637,652	10,568,628	11,499,604	12,430,580
Cumulative	44,202,173	53,839,825	64,408,454	75,908,058	88,338,639
LOAN DEFAULTS					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
NET LOAN REPAYMENTS					
Current	8,706,676	9,637,652	10,568,628	11,499,604	12,430,580
Cumulative	44,202,173	53,839,825	64,408,454	75,908,058	88,338,639
INVESTED FUNDS	3,864,273	1,871,865	722,812	454,204	1,134,759
Interest Rate for Invested Funds	9.20%	9.20%	9.20%	9.20%	9.20%
Interest on Invested Funds	\$355,513	\$172,212	\$66,499	\$41,787	\$101,638
<b>**TOTAL SOURCES OF FUNDS**</b>					
Current	16,019,786	13,844,076	12,589,311	12,295,990	13,006,396
Cumulative	299,332,748	313,176,824	325,766,135	338,062,125	351,068,522
<b>***USES OF FUNDS***</b>					
BOND RETIREMENT					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL BOND INSURANCE FEE	0	0	0	0	0
-LOAN ACTIVITY-					
LOANS MADE					
Current	11,250,000	11,250,000	11,250,000	11,250,000	11,250,000
Cumulative	124,064,240	135,314,240	146,564,240	157,814,240	169,064,240
GRANTS MADE					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL LOANS & GRANTS MADE					
Current	11,250,000	11,250,000	11,250,000	11,250,000	11,250,000
Cumulative	124,064,240	135,314,240	146,564,240	157,814,240	169,064,240
ADMINISTRATIVE/OPERATIONAL COSTS	\$550,000	\$550,000	\$550,000	\$550,000	\$550,000
<b>**TOTAL USES OF FUNDS**</b>					
Current	11,800,000	11,800,000	11,800,000	11,800,000	11,800,000
Cumulative	129,014,240	140,814,240	152,614,240	164,414,240	176,214,240
<b>****FUND BALANCE**** (END OF YEAR)</b>	\$4,219,786	\$2,044,076	\$789,311	\$495,990	\$1,206,396
<b>***INFLATION ANALYSIS OF FUND***</b>					
INFLATION RATE	4.60%	4.60%	4.60%	4.60%	4.60%
CONSTANT DOLLARS	4,234,212	1,954,184	754,599	474,178	1,153,343

5-0803B  
Cramer  
5/2/87

Original sponsors: Halford and Sturgulewski

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 167 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to grants for water supply, sewage,  
7 and solid waste facilities; establishing a revolving  
8 loan fund; and providing for an effective date."

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

10 \* Section 1. AS 46.03.030(c) is amended to read:

11 (c) There is a water quality enhancement program and [,] water  
12 supply, sewage [SEWERAGE], and solid waste facilities fund created in  
13 the department to carry out the purposes of this section.

14 \* Sec. 2. AS 46.03.030(d) is amended to read:

15 (d) The department shall, by regulation, identify those costs  
16 that [WHICH] are eligible costs for the purposes of this section.  
17 Eligible costs include the costs established in a construction con-  
18 tract which are necessary for construction of a project, but do not  
19 include the cost of interest and financing and right-of-way acquisi-  
20 tion, or costs related to operation, maintenance, or repair [OR RE-  
21 PLACEMENT] of a project.

22 \* Sec. 3. AS 46.03.030(e) is amended to read:

23 (e) The department may grant to a municipality not more than 50  
24 percent of the eligible costs that [, INCLUDING COSTS OF OBTAINING  
25 FEDERAL WAIVERS FROM THE REQUIREMENT FOR SECONDARY TREATMENT PLANTS,  
26 WHICH] are not paid for by the federal government for solid waste  
27 processing or disposal facilities constructed after July 1, 1980.  
28 However, the department may grant a municipality up to 60 percent of  
29 the eligible costs not paid for by the federal government for a solid

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

3-31-87

****SIRF FULL 30 YEAR REPORT****	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
<b>***SOURCES OF FUNDS***</b>					
BEGINNING BALANCE		12,499,503	12,884,879	15,298,204	21,337,890
CAPITALIZATION					
Current	\$13,074,480	12,916,320	13,515,320	17,432,540	13,074,480
Cumulative	\$13,074,480	25,990,800	39,507,120	56,939,760	70,014,240
BONDS ISSUED					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
OTHER INCOME (INCLUDING PENALTIES)					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
LOAN ACTIVITY*					
LOAN REPAYMENTS					
Current	\$0	0	377,329	1,902,889	2,872,728
Cumulative	\$0	0	377,329	2,380,818	5,753,545
LOAN DEFAULTS					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
NET LOAN REPAYMENTS					
Current	\$0	0	377,329	1,902,889	2,872,728
Cumulative	\$0	0	377,329	2,380,818	5,753,545
INVESTED FUNDS	\$13,074,480	12,341,343	14,462,007	20,917,213	20,351,658
Interest Rate for Invested Funds	3.20%	3.20%	3.20%	3.20%	3.20%
Interest on Invested Funds	\$0	\$1,135,404	\$1,330,505	\$1,324,384	\$1,872,353
<b>**TOTAL SOURCES OF FUNDS**</b>					
Current	\$13,074,480	26,551,225	28,788,832	36,357,917	39,556,551
Cumulative	\$13,074,480	39,625,706	58,334,538	104,692,455	144,349,106
<b>***USES OF FUNDS***</b>					
BOND RETIREMENT					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
TOTAL BOND INSURANCE FEE	\$0	0	0	0	0
—LOAN ACTIVITY—					
LOANS MADE					
Current	\$0	13,074,480	12,366,320	12,366,320	16,882,540
Cumulative	\$0	13,074,480	25,440,800	38,407,120	55,289,760
GRANTS MADE					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
TOTAL LOANS & GRANTS MADE					
Current	\$0	13,074,480	12,366,320	12,366,320	16,882,540
Cumulative	\$0	13,074,480	25,440,800	38,407,120	55,289,760
ADMINISTRATIVE/OPERATIONAL COSTS	\$0	\$0	\$550,000	\$550,000	\$550,000
<b>**TOTAL USES OF FUNDS**</b>					
Current	\$0	13,074,480	12,916,320	13,515,320	17,432,540
Cumulative	\$0	13,074,480	25,990,800	39,507,120	56,939,760
<b>****FUND BALANCE**** (END OF YEAR)</b>	\$13,074,480	\$13,476,746	\$15,792,512	\$22,941,597	\$22,224,811
<b>***INFLATION ANALYSIS OF FUND***</b>					
INFLATION RATE	4.60%	4.60%	4.60%	4.60%	4.60%
CONSTANT DOLLARS	\$12,499,503	12,384,879	15,298,204	21,337,890	21,246,554

\*\*\*SIRF FULL 30 YEAR REPORT\*\*\*

	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
<b>***SOURCES OF FUNDS***</b>					
BEGINNING BALANCE	21,246,664	21,348,572	20,440,344	15,193,325	10,588,311
CAPITALIZATION					
Current	3,715,320	4,358,160	0	0	0
Cumulative	78,730,550	33,888,720	83,298,720	83,888,720	83,888,720
BONDS ISSUED					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
OTHER INCOME (INCLUDING PENALTIES)					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
LOAN ACTIVITY*					
LOAN REPAYMENTS					
Current	4,132,494	5,872,285	5,313,748	5,344,724	7,775,700
Cumulative	3,689,340	14,361,325	20,375,873	27,719,797	35,495,497
LOAN DEFAULTS					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
NET LOAN REPAYMENTS					
Current	4,132,494	5,872,285	5,313,748	5,344,724	7,775,700
Cumulative	3,689,340	14,361,325	20,375,873	27,719,797	35,495,497
INVESTED FUNDS	21,823,399	19,579,817	14,553,792	10,238,558	6,664,511
Interest Rate for Invested Funds	3.28%	3.28%	3.28%	3.28%	3.28%
Interest on Invested Funds	\$1,334,288	\$1,301,270	\$1,338,949	\$541,347	\$612,135
<b>**TOTAL SOURCES OF FUNDS**</b>					
Current	36,832,686	33,130,286	27,692,741	22,380,496	19,377,646
Cumulative	180,381,732	213,562,379	241,254,320	254,235,316	293,312,662
<b>***USES OF FUNDS***</b>					
BOND RETIREMENT					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL BOND INSURANCE FEE	0	0	0	0	0
—LOAN ACTIVITY—					
LOANS MADE					
Current	12,524,480	11,250,300	11,250,300	11,250,300	11,250,300
Cumulative	57,314,240	79,264,240	90,314,240	101,564,240	112,314,240
GRANTS MADE					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL LOANS & GRANTS MADE					
Current	12,524,480	11,250,300	11,250,300	11,250,300	11,250,300
Cumulative	57,314,240	79,264,240	90,314,240	101,564,240	112,314,240
ADMINISTRATIVE/OPERATIONAL COSTS	\$550,000	\$550,000	\$550,000	\$550,000	\$550,000
<b>**TOTAL USES OF FUNDS**</b>					
Current	13,074,460	11,800,300	11,800,300	11,800,300	11,800,300
Cumulative	70,314,240	91,314,240	93,614,240	105,414,240	117,214,240
<b>***FUND BALANCE*** (END OF YEAR)</b>	\$22,358,296	\$21,380,286	\$15,392,741	\$11,180,495	\$7,277,646
<b>***INFLATION ANALYSIS OF FUND***</b>					
INFLATION RATE	4.68%	4.68%	4.68%	4.68%	4.68%
CONSTANT DOLLARS	21,348,572	20,440,344	15,193,325	10,588,311	6,357,597

\*\*\*\*\*SIRF FULL 20 YEAR REPORT\*\*\*\*\*

	YEAR 11	YEAR 12	YEAR 13	YEAR 14	YEAR 15
<b>***SOURCES OF FUNDS***</b>					
BEGINNING BALANCE	6,957,597	4,234,212	1,954,184	754,599	474,178
CAPITALIZATION					
Current	0	0	0	0	0
Cumulative	93,088,720	83,088,720	93,088,720	83,088,720	93,088,720
BONDS ISSUED					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
OTHER INCOME (INCLUDING PENALTIES)					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
LOAN ACTIVITY*					
LOAN REPAYMENTS					
Current	8,706,676	3,637,652	10,568,628	11,499,604	12,430,580
Cumulative	44,202,173	53,839,825	64,408,454	75,908,058	88,338,639
LOAN DEFAULTS					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
NET LOAN REPAYMENTS					
Current	8,706,676	3,637,652	10,568,628	11,499,604	12,430,580
Cumulative	44,202,173	53,839,825	64,408,454	75,908,058	88,338,639
INVESTED FUNDS	3,964,273	1,871,915	722,812	454,204	1,184,759
Interest Rate for Invested Funds	9.20%	9.20%	9.20%	9.20%	9.20%
Interest on Invested Funds	\$355,513	\$172,212	\$66,499	\$41,787	\$101,638
<b>**TOTAL SOURCES OF FUNDS**</b>					
Current	16,019,786	13,844,076	12,589,311	12,295,990	13,006,396
Cumulative	299,332,748	313,176,324	325,766,135	338,062,125	351,068,522
<b>***USES OF FUNDS***</b>					
BOND RETIREMENT					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL BOND INSURANCE FEE	0	0	0	0	0
LOAN ACTIVITY—					
LOANS MADE					
Current	11,250,000	11,250,000	11,250,000	11,250,000	11,250,000
Cumulative	124,064,240	135,314,240	146,564,240	157,814,240	169,064,240
GRANTS MADE					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL LOANS & GRANTS MADE					
Current	11,250,000	11,250,000	11,250,000	11,250,000	11,250,000
Cumulative	124,064,240	135,314,240	146,564,240	157,814,240	169,064,240
ADMINISTRATIVE/OPERATIONAL COSTS	\$550,000	\$550,000	\$550,000	\$550,000	\$550,000
<b>**TOTAL USES OF FUNDS**</b>					
Current	11,800,000	11,800,000	11,800,000	11,800,000	11,800,000
Cumulative	129,014,240	140,814,240	152,614,240	164,414,240	176,214,240
<b>****FUND BALANCE**** (END OF YEAR)</b>	\$4,219,786	\$2,344,076	\$789,311	\$495,990	\$1,206,396
<b>***INFLATION ANALYSIS OF FUND***</b>					
INFLATION RATE	4.60%	4.60%	4.60%	4.60%	4.60%
CONSTANT DOLLARS	4,234,212	1,954,184	754,599	474,178	1,153,343

\*\*\*\*\*SIRF FULL 20 YEAR REPORT\*\*\*\*\*

	YEAR 15	YEAR 17	YEAR 18	YEAR 19	YEAR 20
<b>**SOURCES OF FUNDS**</b>					
BEGINNING BALANCE	1,153,343	2,334,292	5,561,083	9,379,708	14,338,182
CAPITALIZATION					
Current	0	0	0	0	0
Cumulative	33,888,720	33,888,720	33,888,720	33,888,720	33,888,720
BONDS ISSUED					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
OTHER INCOME (INCLUDING PENALTIES)					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
LOAN ACTIVITY*					
LOAN REPAYMENTS					
Current	13,361,557	14,292,533	15,223,509	16,154,485	17,085,461
Cumulative	101,700,195	115,992,729	131,216,237	147,370,721	164,456,182
LOAN DEFAULTS					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
NET LOAN REPAYMENTS					
Current	13,361,557	14,292,533	15,223,509	16,154,485	17,085,461
Cumulative	101,700,195	115,992,729	131,216,237	147,370,721	164,456,182
INVESTED FUNDS	2,714,399	5,325,325	9,304,592	13,734,132	19,623,642
Interest Rate for Invested Funds	3.20%	3.20%	3.20%	3.20%	3.20%
Interest on Invested Funds	\$249,771	\$490,368	\$825,582	\$1,253,546	1,805,370
<b>**TOTAL SOURCES OF FUNDS**</b>					
Current	14,754,670	17,615,393	21,511,174	26,797,738	33,229,317
Cumulative	365,333,192	383,450,304	405,061,259	431,358,396	463,388,314
<b>**USES OF FUNDS**</b>					
BOND RETIREMENT					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL BOND INSURANCE FEE	0	0	0	0	0
—LOAN ACTIVITY—					
LOANS MADE					
Current	11,250,000	11,250,000	11,250,000	11,250,000	11,250,000
Cumulative	100,314,240	191,564,240	202,314,240	214,064,240	225,314,240
GRANTS MADE					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL LOANS & GRANTS MADE					
Current	11,250,000	11,250,000	11,250,000	11,250,000	11,250,000
Cumulative	100,314,240	191,564,240	202,314,240	214,064,240	225,314,240
ADMINISTRATIVE/OPERATIONAL COSTS	\$550,000	\$550,000	\$550,000	\$550,000	\$550,000
<b>**TOTAL USES OF FUNDS**</b>					
Current	11,800,000	11,800,000	11,800,000	11,800,000	11,800,000
Cumulative	106,814,240	199,314,240	211,614,240	223,414,240	235,314,240
<b>***FUND BALANCE*** (END OF YEAR)</b>	\$2,354,670	\$5,316,393	\$9,311,174	\$14,297,738	\$21,429,317
<b>***INFLATION ANALYSIS OF FUND***</b>					
INFLATION RATE	4.50%	4.50%	4.50%	4.50%	4.50%
CONSTANT DOLLARS	2,334,292	5,561,083	9,379,708	14,338,182	20,486,532

5-0803B  
Cramer  
5/2/87

Original sponsors: Halford and Sturgulewski

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 167 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to grants for water supply, sewage,  
7 and solid waste facilities; establishing a revolving  
8 loan fund; and providing for an effective date."

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

10 \* Section 1. AS 46.03.030(c) is amended to read:

11 (c) There is a wat. quality enhancement program and [,] water  
12 supply, sewage [SEWERAGE], and solid waste facilities fund created in  
13 the department to carry out the purposes of this section.

14 \* Sec. 2. AS 46.03.030(d) is amended to read:

15 (d) The department shall, by regulation, identify those costs  
16 that [WHICH] are eligible costs for the purposes of this section.  
17 Eligible costs include the costs established in a construction con-  
18 tract which are necessary for construction of a project, but do not  
19 include the cost of interest and financing and right-of-way acquisi-  
20 tion, or costs related to operation, maintenance, or repair [OR RE-  
21 PLACEMENT] of a project.

22 \* Sec. 3. AS 46.03.030(e) is amended to read:

23 (e) The department may grant to a municipality not more than 50  
24 percent of the eligible costs that [, INCLUDING COSTS OF OBTAINING  
25 FEDERAL WAIVERS FROM THE REQUIREMENT FOR SECONDARY TREATMENT PLANTS,  
26 WHICH] are not paid for by the federal government for solid waste  
27 processing or disposal facilities constructed after July 1, 1980.  
28 However, the department may grant a municipality up to 60 percent of  
29 the eligible costs not paid for by the federal government for a solid

1 waste processing or disposal facility constructed after July 1, 1980,  
2 if the facility is used for resource recovery. The eligible costs of  
3 a solid waste processing or disposal facility are determined by the  
4 federal agency granting the most monetary assistance for construction  
5 of the facility. For a solid waste processing or disposal facility  
6 for which federal money is not available, the department shall de-  
7 mine the eligible costs in accordance with (d) of this section. A  
8 municipality shall construct solid waste processing or disposal facil-  
9 ities financed by grants under this section according to plans and  
10 specifications approved by the department.

11 \* Sec. 4. AS 46.03 is amended by adding a new section to read:

12 Sec. 46.03.032. ALASKA CLEAN WATER FUND. (a) There is estab-  
13 lished as a separate fund the Alaska clean water fund, which is dis-  
14 tinct from any other money or fund in the treasury, and which consists  
15 of money appropriated by the legislature to meet federal matching  
16 requirements, federal capitalization grants, loan repayments, interest  
17 received from loan repayments, and interest received from investment  
18 of money in the clean water fund.

19 (b) The department shall administer the Alaska clean water fund.

20 (c) The department may accept and make use of all capitalization  
21 grants provided by the federal government under the federal Clean  
22 Water Act, as amended by P.L. 100-4.

23 (d) Except as otherwise limited by federal law, the Alaska clean  
24 water fund may be used for the following:

25 (1) buying or refinancing treatment works debt obligations  
26 of municipalities;

27 (2) planning, designing, building, constructing, and re-  
28 habilitating facilities associated with public sewage collection,  
29 treatment, and discharge facilities;

1 (3) constructing, equipping, modifying, improving, and  
2 expanding public water supply, treatment, and distribution systems;

3 (4) guaranteeing or purchasing insurance for public agency  
4 obligations related to treatment works construction.

5 (e) Repayment of loans must be secured in a manner that the  
6 department determines is feasible to assure prompt repayment under a  
7 loan agreement entered into with the borrower.

8 (f) The department may spend money from the fund to pay the  
9 costs of administering the fund.

10 (g) A municipality wishing to borrow money from the fund must  
11 demonstrate to the satisfaction of the department,

12 (1) sufficient legal authority to incur the debt for which  
13 it is applying; and

14 (2) that it will establish and maintain a dedicated source  
15 of revenue or other acceptable revenue source for repayment of the  
16 loan.

17 (h) Allocation of Alaska clean water fund loans must be made in  
18 accordance with the priority list developed by the department, using  
19 criteria specified in regulations adopted by the department.

20 (i) Before making a loan from the Alaska clean water fund, the  
21 department shall, by regulation, specify

22 (1) standards for the eligibility of borrowers and the type  
23 of projects to be financed with loans;

24 (2) loan term and interest rate policies for loans made  
25 from the fund;

26 (3) standards regarding the technical and economic viabili-  
27 ty and revenue self-sufficiency of eligible projects;

28 (4) collateral or other security required for loans;

29 (5) terms of loans; and

1 (6) other relevant criteria, standards, or procedures.

2 (j) A loan made by the department must be made according to the  
3 standards, criteria, and procedures established by regulations under  
4 this section.

5 (k) The department shall prepare reports required by the federal  
6 government in conjunction with federal capitalization grant award  
7 conditions. The department shall also provide the Alaska legislature  
8 with an annual report on the Alaska clean water fund on or before the  
9 first day of each legislative session.

10 (l) Except as provided in (n) of this section, loan repayments  
11 and interest earned by loans from the Alaska clean water fund must be  
12 deposited in the fund.

13 (m) Annual principal payments must commence within one year  
14 after project completion, or within two years after the date the loan  
15 is made, whichever is earlier.

16 (n) State appropriations in excess of the amount required by the  
17 federal Clean Water Act, as amended by P.L. 100-4, shall be accounted  
18 for separately. Repayments of principal from loans made from these  
19 amounts shall be deposited in the Alaska clean water fund. Repayments  
20 of interest from loans made from these amounts and earnings on these  
21 amounts shall be deposited in the general fund. The commissioner of  
22 administration shall separately account for the interest repayments  
23 and earnings that the Department of Environmental Conservation de-  
24 posits in the general fund.

25 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).  
26  
27  
28  
29

S B

182

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

D/B

Bill Version: CS SB 182 CAR

REQUEST: \_\_\_\_\_

Publish Date: 3-25-87

Revision Date: March 23, 1987

Agency Affected: Natural Resources

Title: State Oil and Gas Lease Sales

BRJ: Petroleum Management

Sponsor: Senate Oil & Gas Special Committee

Components: \_\_\_\_\_

Requestor: Senate Oil & Gas Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL	**	**	**	**	**	**
CONTRACTUAL	**	**	**	**	**	**
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

\* Earlier offering of exempt acreage sales resulting from this bill will result in earlier receipt of bonus and rental payments and, in the event of a discovery, earlier receipt of royalties and taxes.

\*\* Some savings in contractual and travel costs related to public meetings could occur, depending on the location of the exempt sale and the public's interest.

Prepared by: Carol Wilson Phone: 465-2400  
Division: Commissioner's Office Date: 3/23/87

Approved by Commissioner: Judith M. B... Date: 3/24/87  
Agency: Natural Resources

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)
  - Senate Secretary

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400

March 24, 1987

The Honorable Bettye Fahrenkamp, Chair  
Senate Special Committee on Oil and Gas  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Senator Fahrenkamp:

Subject: Senate Bill 182, which would allow the Department of Natural Resources to streamline procedures for exempt acreage oil and gas lease sales.

Position: The Department of Natural Resources supports this bill, with a slight change in wording, because it would promote early exploration of state lands previously leased or adjacent to existing oil and gas leases or discoveries. Early exploration of exempt acreage will result in earlier receipt of lease bonus and rental payments and, in the event of a discovery, earlier receipt of royalties and taxes.

Background: Exempt acreage oil and gas lease sales are allowed under AS 38.05.180(d). To qualify, acreage must have previously been subject to an oil and gas lease, contiguous to land under an oil and gas lease, or adjacent to land where a commercial oil or gas discovery has been made.

Exempt sales need not be listed on the formal five-year leasing schedule presented to the Legislature each January. Exempt sales are requested by the oil and gas industry when a genuine interest in leasing and exploring the area exists.

The department receives at least two or more requests for exempt sales each year. Before an exempt acreage sale can be held, just as for all other state oil and gas lease sales, Division of Oil and Gas staff are required by AS 38.05.035(e) to prepare a written finding that the proposed sale is in the state's best interest.

Since exempt sales are for previously leased acreage or for areas adjacent to leased acreage, written findings for the already leased areas are revised slightly to serve as the

*Backup CSSB 1820 + 2*

March 24, 1987

exempt acreage sale finding. However, since exempt acreage written findings are prepared by existing staff, they can only be completed as time is available.

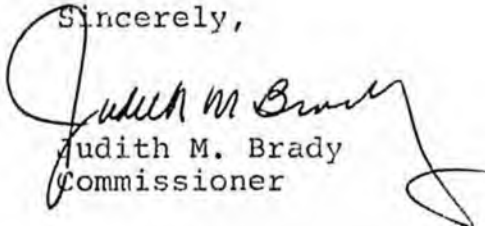
This bill would allow the findings previously prepared for the general sale area, if completed within 36 months of the exempt sale, to meet the best interest finding requirement for the proposed exempt sale.

Recommendation: Delete lines 13 and 14, page 2 and the word "or" at the end of line 12, page 2. This will clarify the intent of the bill.

Conclusion: By streamlining the exempt sale process, additional exempt sales could be offered each year and less time would elapse between the sale request and the sale. Early exploration of exempt acreage land would be encouraged. Public notice requirements would still be in effect, as would all other oil and gas lease sale requirements.

Please let me know if you would like additional information about our oil and gas lease sale process.

Sincerely,



Judith M. Brady  
Commissioner

cc: Committee Members  
George Sullivan  
Rod Swope  
Commissioner Collinsworth, DF&G  
Commissioner Kelso, DEC

S B

183

# HOUSE COMMITTEE REPORT

5/12

(9)

Date referred: 5/6/87

FURTHER REFERRALS: Finance

DATE: 5/12/87

The Resources Committee has considered CSSB 183 (Res)

"An Act relating to dams and reservoirs; and providing for an effective date."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published 4/3/87
- zero fiscal note  same as previous zero fiscal note published 3/1/87
- zero with analysis

**SIGNING DO PASS:**

**SIGNING OTHER RECOMMENDATIONS:**

Jan Ost

Cliff Davidson

Donk Schultz

Harold Springer

Adelheid Herrmann

Mike Hagan

Wendy Leaver

Lynne Hagan

Bob Lee

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Jan Ost  
Chairman's signature

# ALASKA STATE LEGISLATURE

SB 183

Sen. Lloyd Jones, Chairman  
Sen. John B. "Jack" Coghill, Vice Chairman  
Sen. Mitch Abood  
Sen. Bettve Fahrenkamp  
Sen. Tim Kelly



P.O. Box V  
Juneau, AK 99811  
907-465-4921

## Senate Transportation Committee


### COMMITTEE REPORT

Madame President:

The transportation committee expresses that it is not the intent, either through Senate Bill 183, nor through regulations, that the bill affect settling ponds of small placer miners.

The transportation committee also asks to see and review the regulations that are promulgated to implement the legislation.

Sincerely,

 4/2/87  
\_\_\_\_\_  
Senator Lloyd Jones, Chairman  
Senate Transportation Committee

# WESTERN STATES WATER

220 South 2nd East, Suite 200 Salt Lake City, Utah, 84111 (801) 521-2300



5B  
103

A weekly report prepared by the staff of the Western States Water Council

Tom Willardson - Editor

## WATER RESOURCES

Issue #671, March 27, 1987

### Dam Safety

On March 19, the Wall Street Journal carried a front page article on dam safety. It addressed progress and problems in current federal and state programs. Of some 80,000 U.S. dams, about 10% are owned or regulated by federal agencies. The rest are controlled by state and local governments and private interests. On the state level, a Federal Emergency Management Agency (FEMA) report lists 1948 unsafe dams, down from 2,900 in 1981. California's regulatory program involves a staff of 60 and a \$3.3M budget. Pennsylvania also has an exemplary program. Over five years, the number of unsafe dams in the state has been reduced from 208 to 72, in part with the help of \$50M in low interest state loans, usually under consent agreements. However, nationally, state program expenditures average \$265,000 a year. The FEMA survey found only 21 states with adequate regulatory dam safety programs. Many are underfunded or undermanned. Alabama, Delaware and Hawaii have no dam safety programs. During this era of tight budgets, expenditures for dam safety programs or repairs are not always a high priority. The Corps FY88 budget request includes no funding for the newly authorized non-federal dam safety program grants under P.L. 99-662. Further, from 1981 to 1984, the Corps of Engineers undertook only two safety related dam modifications. Reportedly 20% of the Bureau of Reclamation's 300 dams are classified as unsafe. While the Bureau has increased its request for dam safety funds, since 1980 only about 11% of \$750M authorized for safety modifications has been spent.

High hazard dams, or those where failure would mean the loss of life, are of greatest concern. Political pressure for federal action probably peaked after the 1976 Teton Dam disaster in Idaho, which killed eleven people. The article notes that in the 1970's, "nearly 500 people died in six major U.S. dam breaks." There have been few fatalities in the 1980's. However, according to William Bivins, FEMA Dam Safety Coordinator, "One of these times, Mother Luck isn't going to hold. One of these high hazard dams is going to pop at night when everyone is asleep in bed. It will wipe out hundreds of people." Joseph Ellam, Pennsylvania's Director of Dam Safety and past president of the Association of State Dam Safety Officials (ASDSO), notes, "Catastrophic failures have occurred before and they will occur again. With the exception of nuclear powerplants, no man-made structure has a greater potential for killing a large number of people than a dam." In Pennsylvania, the Greater Johnstown Water Authority is under order to fix or dismantle its Salt Lick Dam. The dam is located near the site where a dam failed during the great Johnstown flood of 1889, which killed 2,200 people.

How safe is safe? This question is not easily answered. Federal guidelines require federal dams to withstand the "maximum credible earthquake," and have a spillway capacity to pass the "probable maximum flood." Defining and implementing these requirements leaves substantial room for professional disagreement. William Gianelli, former Assistant Secretary of the Army for Civil Works and former Director of the California Department of Water Resources, states the Corps could never explain to his satisfaction how it calculated the probable maximum flood. According to the Corps, if Prado Dam on the Santa Anna River above Los Angeles failed during the probable maximum flood, it would inundate 1.3 million homes with \$40B in damages. However, Gianelli notes, "That dam has been there fifty years. It has never filled to the point where the spillway is even used. You fix a dam if it's leaking." In 1983, the West Pinopolos Dam in South Carolina suddenly sprang an enormous leak. While police evacuated downstream residents, emergency personnel worked feverishly to stop

the leak, finally using a makeshift dam of pile-driven utility poles. Owned by the South Carolina Public Service Authority, a state-owned utility, the dam is 30 miles above Charleston on the Cooper River. According to Ronald Corso, Director of the Inspections Division for the Federal Energy Regulatory Commission, if the dam failed, some 2,000 residents "wouldn't have time to run for their lives." While the dam is now in good repair, Corso says an extraordinary earthquake, such as hit Charleston in 1886, could liquify the dam's foundation. The resulting flood would cause an estimated \$1B in damages to a major industrial corridor, the Charleston Naval Yard and the Atlantic Fleet's Nuclear-weapons Arsenal, finally clogging Charleston Harbor with silt and closing this key Navy port. Under federal pressure, the utility has agreed to strengthen the dam. According to Corso, "We don't care where they get the money, so long as they fix it."

This raises another problem. How do you finance needed dam safety repair work? In 1984, a survey by the Western States Water Council identified 665 dams in fifteen western states with safety problems. The rough cost estimate for rehabilitation totaled over \$316M. Private financial sources are often limited or unavailable. Dam safety work seldom produces new revenues to pay back bonds. State and local budgets are also tight. The Reagan Administration has opposed federal funding for non-federal dam safety work. As a result last year Congress dropped from the Corps omnibus legislation provisions authorizing federal financial and technical assistance, including allowing the Corps of Engineers to repair non-federal dams on a reimbursable basis. However, as illustrated above, the impact of a non-federal dam failure could have a tremendous impact on national interests. Without government funding and regulatory action, with respect to many dams, we are at Mother Nature's mercy. According to Charles Gardner, ASDSO President, "We need to get the message across that dam safety deserves a high priority (see WSW #664)."

#### Reclamation Act/Surplus Crops

On March 5, Representative Sam Gejdenson (D-CT), introduced the Irrigation Subsidy Reform Act of 1987 (H.R. 1443). The bill would amend the Reclamation Projects Act of 1939 to require the Secretary of Interior to charge full cost for the delivery of water used "in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provision of the Agricultural Act of 1949 (7 U.S.C. 1421 et sec.)." The term "full cost" would be defined by Section 202(3) of the Reclamation Reform Act of 1982 (43 U.S.C. 390(b)(3)). This change would apply to all new or amended contracts after the date of enactment. The Secretary would set the amount of the "full cost" payment, for the succeeding year, on or before July 1 of each year. In addition to Mr. Gejdenson, H.R. 1443 has twenty-one co-sponsors from the States of California, Connecticut, Illinois, Indiana, Iowa, Massachusetts, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, Vermont and Wisconsin. Given the apparent concern over subsidizing production of surplus crops, it is interesting to note that many of the above states have a vested interest in this issue. For FY84, federal expenditures for Commodity Credit Corporation price supports and related programs were highest in the following twelve states, which are listed by rank: California, Pennsylvania, Illinois, New York, Indiana, Michigan, Texas, Ohio, Kentucky, Louisiana, and Minnesota. The 99th Congress authorized a study of production of surplus crops in reclamation states in passing H.R. 3113, which also authorized an additional \$600M for the Bureau of Reclamation's Small Projects Loan Program (see WSW #648).

#### WESTERN STATES WATER COUNCIL

##### Water Policy Seminar

On Thursday, April 30, in conjunction with its 86th quarterly meetings, the Western States Water Council will sponsor a Water Policy Seminar in Washington, D.C. The Seminar will be held at the Hall of the States, Rooms 263-265, 444 North Capitol Street. The meeting is scheduled from 9:00 a.m. to 3:45 p.m. At 4:30 p.m., the Council will sponsor a reception in the Senate Dirksen Office Building. Topics to be considered are Groundwater Quality Protection, the Federal Role in Water Transfers, and FERC Hydropower Licensing and State Water Law. A variety of speakers have been invited to participate. Call (801) 521-2900 for more information.

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

SB 183  
POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

MEMORANDUM

March 27, 1987

SUBJECT: Sectional Analysis of SB 183  
(Dams and reservoirs)

TO: Senator Arliss Sturgulewski  
Chairman, Community and Regional Affairs  
Committee

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 imposes criminal penalties for knowingly making a false report to the Department of Natural Resources concerning the condition of a dam or reservoir.

Section 2 adds a new chapter concerning dam and reservoir safety.

Sec. 36.17.010 sets out the legislative purpose.

Sec. 46.17.020 gives the Department of Natural Resources responsibility for supervising the safety of dams and reservoirs.

Sec. 46.17.030 requires the department to adopt regulations and issue orders necessary to carry out the chapter.

Sec. 46.17.040 prohibits construction, repair, or removal of a dam or reservoir unless the department approves. Routine maintenance and operations are excepted.

Senator Sturgulewski

Page 2

March 27, 1987

Sec. 46.17.050 directs the department to inspect each dam and reservoir subject to the chapter once every five years and permits the department to inspect more frequently. The department may require the owner to perform the inspection or pay for the cost of an inspection performed by the department.

Sec. 46.17.060 permits the department to seek a search warrant to allow an inspection if the department has given two weeks' written notice. The department may enter premises without notice if a dam or reservoir is believed to be unsafe.

Sec. 46.17.070 sets out standards for the department's determination of whether a dam or reservoir constitutes or would constitute a danger to life or property.

Sec. 46.17.080 permits the department to seek an injunction and damages in enforcing the chapter.

Sec. 46.17.090 subjects a final action of the department to judicial review under the Administrative Procedure Act.

Sec. 46.17.100 permits the department to enter into cooperative agreements with other governments and prohibits municipalities from exercising powers that conflict with the powers and duties given the department. Under subsections (c) and (d), the chapter does not apply to a federally-owned or operated dam or reservoir and does not affect the powers of the Department of Environmental Conservation or the Department of Fish and Game.

Sec. 46.17.110 limits actions against the state. An action may be maintained against the state if the state negligently orders a dam owner to perform an action and the dam owner complies with the order but objected to it.

Sec. 46.17.120 acknowledges that the chapter does not relieve an owner of a dam or reservoir of the duties or liabilities incident to the ownership or operation of the dam or reservoir.

Sec. 46.17.150 imposes penalties on persons who knowingly violate the chapter, an approval, order, regulation, or requirement of the department, or who obstruct performance of duties.

Senator Sturgulewski  
Page 3  
March 27, 1987

Sec. 46.17.900 is a definition section.

Section 3 is an immediate effective date clause.

If I may be of further assistance, please advise.

TBC:mkr  
m10/065

SB 183

March 30, 1987

The Honorable Arliss Sturgulewski  
Sponsor of Senate Bill 183  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99801

Dear Senator Sturgulewski:

Subject: Senate Bill 183, relating to supervision of safety of dams and reservoirs.

Position: The Department of Natural Resources recommends the passage of Senate Bill 183.

Background: Currently, there are 185 dams on Alaska's dam inventory. In 1981, the U.S. Department of the Army, Corps of Engineers, ended its dam safety program for non-federal dams in Alaska. There are but 20 federal dams in Alaska. The remaining dams are covered under a minimal dam safety program the Department of Natural Resources, division of land and water management, established through regulations. The department adopted regulations in 11 AAC 93 under the authority of several sections in AS 46.15, the Alaska Water Use Act, including a provision in AS 46.15.080 which gives the commissioner authority to regulate water diversions.

Alaska Water Resources Board resolution 84-4, dated March 14, 1984, recommended review of the existing statutory authority under which dams in the state are regulated by the division.

About half of the 50 states have enacted specific dam safety legislation, but most of these states did so in response to dam failures resulting in loss of life and extensive property damage. Clearly it would be advantageous for Alaska to have a well-founded, comprehensive dam safety statutory scheme and program in effect to prevent such tragedies from occurring here. SB 183 is based on the Model Law for State Supervision of Safety of Dams and Reservoirs drafted by the United States Committee on Large Dams of the International Commission on Large Dams.

Section 2, which contains the body of the bill, creates a new ch. 17 in AS 46. Proposed AS 46.17.010 first states the purpose of the chapter. It then makes the supervision of safety of dams and reservoirs the responsibility of the Department of Natural Resources. The commissioner of that department is directed to employ a qualified engineer experienced in the design and construction of dams and reservoirs to direct the dam safety program. Proposed AS 46.17.040 would make it unlawful for anyone to construct, enlarge, repair, alter, remove, maintain, operate, or abandon a dam or reservoir, as defined in the bill, except upon application to, and approval of, the department. To ensure that dams and reservoirs remain safe once constructed, the department is directed in proposed AS 46.17.050 to inspect or to require owners to inspect dams and reservoirs covered under the bill at least once every five years, or more frequently if necessary. To ensure that it can make adequate inspections, the department is also given authority, in proposed AS 46.17.060, to enter the private property on which the dam or reservoir is located as might be necessary to make the inspection. Proposed AS 46.17.050 also authorizes the department to require owners to bear the costs of inspection.

Proposed AS 46.17.070 sets out specific standards for determining the safety of a dam or reservoir. In addition, the department is allowed, by proposed AS 46.17.110, to enter into cooperative management agreements with municipal corporations and other state and federal agencies to effectuate its responsibilities under the bill. To ensure that the state's action in inspecting and regulating the operation of dams or reservoirs does not shift the liability of the private owner to the state for loss of life or property damage due to a dam or reservoir failure, proposed AS 46.17.120 bars any action against the state based on any purported act or omission of a state agent or employee connected with the dam safety program.

Section 1 of the bill amends AS 11.56.800(a), dealing with the crime of making a false report. A new paragraph (4) will make it a crime to file a false report with the Department of Natural Resources concerning the condition of a dam or reservoir. Additional criminal sanctions are also contained in sec. 2 of the bill in proposed AS 46.17.100, which would make it a class A misdemeanor to violate any provision of AS 46.17 or lawful order the department issues under AS 46.17.

The Honorable Arliss Sturgulewski    -3-    March 30, 1987

Recommendation: Given the importance of a good dam safety program to the State of Alaska, the Department of Natural Resources favors passage of this legislation.

Sincerely,

Judith M. Brady  
Commissioner

cc: Senate Transportation Committee  
George Sullivan  
Rod Swope

No 203

FX

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

SENATE  
BILL VERSION: SB 183 a  
PUBLISH DATE: 4/3/87

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_

Title: An act relating to dams and reservoirs

Sponsor: Seungulavak

Req. No: \_\_\_\_\_

Agency Affected: Natural Resources

BRU: Land and Water Management

Component: Land and water Public Use

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	65.0	65.0	65.0	65.0	65.0
OTHER	0	0	0	0	0	0
TOTAL	65.0	65.0	65.0	65.0	65.0	65.0

POSITIONS:

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

ANALYSIS :

Senate Bill No. 183 will qualify DNR's Dam Safety Program to qualify for at least 65.0 federal funding under P.L. 99-662 for five years. No increases in state expenditures will occur as a result of this legislation.

Prepared by: Kyle J. Cherry Phone: 562-3332  
Division: Land and Water Management Date: 3/26/87

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by preparer):

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

No 204  
FX

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

SENATE

BILL VERSION: SB 183 b  
PUBLISH DATE: 4/3/87

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: Relating to dams and reservoirs

Agency Affected: Environmental Conservation  
BRU: N.A.

Sponsor: Senator Sturqulewski  
Requestor: Senator Jones--Transportation

Components: N.A.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANECUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

\_\_\_\_\_

Prepared by: Randy Bayliss  
Division: Office of the Commissioner

Phone: 465-2600  
Date: March 17, 1987

Approved by Commissioner: \_\_\_\_\_  
Agency: Environmental Conservation

Date: 3/18/87

Distribution (by preparer):

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

No. 205

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
 FISCAL NOTE

SENATE  
 BILL VERSION: SB 183 c  
 PUBLISH DATE: 4/3/87

REQUEST: \_\_\_\_\_  
 Revision Date: \_\_\_\_\_  
 Title: "An Act relating to dams and reservoirs..."  
 Sponsor: Sen. Sturgulewski  
 Requestor: Senate Transportation

Agency Affected: Department of Law  
 BRU: Prosecution, Legal Services  
 Components: Prosecution - All  
Legal Services - Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS :

Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: March 18, 1987  
 Approved by Commissioner: Grace Berg Schaible, Atty. Gen. Date: March 18, 1987  
 Agency: Department of Law

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)
  - Senate Secretary

# Alaska State Legislature

SB 183

SENATOR  
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee  
Vice-Chairman, Senate Judiciary Committee  
Member, Senate Resources Committee



2957 SHELDON JACKSON STREET  
ANCHORAGE, ALASKA 99503

While in Juneau  
P. O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-3818

## Senate

MEMORANDUM

April 10, 1987

TO: Senator Jack Coghill, Chairman  
Senate Resources Committee

FROM: Senator Arliss Sturgulewski *AS*  
Senate District F

RE: SB 183 "An Act relating to dams and reservoirs and providing for  
an effective date."

Thank you for scheduling a hearing on SB 183 "An Act relating to dams and reservoirs and providing for an effective date."

Senate Bill 183 was before the legislature last year and extensive hearings were held. However at the end of last session the bill was still in the Senate Finance Committee. Senate Bill 183 sets up a formal system of regulation of dams by the Department of Natural Resources (DNR). Presently the DNR only has clear authority to regulate construction activities and no clear authority to monitor the safety of dams throughout the life of the dam. This legislation is based on a Model State Dam Safety Program sponsored by the Association of State Dam Safety Officials and the Council of State Governments. The main purpose of this legislation is to protect the public health and safety.

In order to assist states in the implementation of a dam safety program, the federal government will make funds available through PL 99-662. Alaska would be eligible to receive at least \$65,000 per year for the next five years. There is a zero fiscal impact on state funding.

I have enclosed a sectional analysis prepared by the Legislative Legal Services Division; a DNR position paper supporting this legislation; fiscal notes from the Departments of Natural Resources, Environmental Conservation, and Law; and a recent Wall Street Journal article discussing dam safety. My staff is available to assist if you need additional information.

Enclosures

SB 183

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 27, 1987

SUBJECT: Sectional Analysis of SB 183  
(Dams and reservoirs)

TO: Senator Arliss Sturgulewski  
Chairman, Community and Regional Affairs  
Committee

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 imposes criminal penalties for knowingly making a false report to the Department of Natural Resources concerning the condition of a dam or reservoir.

Section 2 adds a new chapter concerning dam and reservoir safety.

Sec. 36.17.010 sets out the legislative purpose.

Sec. 46.17.020 gives the Department of Natural Resources responsibility for supervising the safety of dams and reservoirs.

Sec. 46.17.030 requires the department to adopt regulations and issue orders necessary to carry out the chapter.

Sec. 46.17.040 prohibits construction, repair, or removal of a dam or reservoir unless the department approves. Routine maintenance and operations are excepted.

Sec. 46.17.050 directs the department to inspect each dam and reservoir subject to the chapter once every five years and permits the department to inspect more frequently. The department may require the owner to perform the inspection or pay for the cost of an inspection performed by the department.

Sec. 46.17.060 permits the department to seek a search warrant to allow an inspection if the department has given two weeks' written notice. The department may enter premises without notice if a dam or reservoir is believed to be unsafe.

Sec. 46.17.070 sets out standards for the department's determination of whether a dam or reservoir constitutes or would constitute a danger to life or property.

Sec. 46.17.080 permits the department to seek an injunction and damages in enforcing the chapter.

Sec. 46.17.090 subjects a final action of the department to judicial review under the Administrative Procedure Act.

Sec. 46.17.100 permits the department to enter into cooperative agreements with other governments and prohibits municipalities from exercising powers that conflict with the powers and duties given the department. Under subsections (c) and (d), the chapter does not apply to a federally-owned or operated dam or reservoir and does not affect the powers of the Department of Environmental Conservation or the Department of Fish and Game.

Sec. 46.17.110 limits actions against the state. An action may be maintained against the state if the state negligently orders a dam owner to perform an action and the dam owner complies with the order but objected to it.

Sec. 46.17.120 acknowledges that the chapter does not relieve an owner of a dam or reservoir of the duties or liabilities incident to the ownership or operation of the dam or reservoir.

Sec. 46.17.150 imposes penalties on persons who knowingly violate the chapter, an approval, order, regulation, or requirement of the department, or who obstruct performance of duties.

Senator Sturgulewski  
Page 3  
March 27, 1987

Sec. 46.17.900 is a definition section.

Section 3 is an immediate effective date clause.

If I may be of further assistance, please advise.

TBC:mkr  
m10/065

SB 183

March 30, 1987

The Honorable Arliss Sturgulewski  
Sponsor of Senate Bill 183  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99801

Dear Senator Sturgulewski:

Subject: Senate Bill 183, relating to supervision of safety of dams and reservoirs.

Position: The Department of Natural Resources recommends the passage of Senate Bill 183.

Background: Currently, there are 185 dams on Alaska's dam inventory. In 1981, the U.S. Department of the Army, Corps of Engineers, ended its dam safety program for non-federal dams in Alaska. There are but 20 federal dams in Alaska. The remaining dams are covered under a minimal dam safety program the Department of Natural Resources, division of land and water management, established through regulations. The department adopted regulations in 11 AAC 93 under the authority of several sections in AS 46.15, the Alaska Water Use Act, including a provision in AS 46.15.080 which gives the commissioner authority to regulate water diversions.

Alaska Water Resources Board resolution 84-4, dated March 14, 1984, recommended review of the existing statutory authority under which dams in the state are regulated by the division.

About half of the 50 states have enacted specific dam safety legislation, but most of these states did so in response to dam failures resulting in loss of life and extensive property damage. Clearly it would be advantageous for Alaska to have a well-founded, comprehensive dam safety statutory scheme and program in effect to prevent such tragedies from occurring here. SB 183 is based on the Model Law for State Supervision of Safety of Dams and Reservoirs drafted by the United States Committee on Large Dams of the International Commission on Large Dams.

Section 2, which contains the body of the bill, creates a new ch. 17 in AS 46. Proposed AS 46.17.010 first states the purpose of the chapter. It then makes the supervision of safety of dams and reservoirs the responsibility of the Department of Natural Resources. The commissioner of that department is directed to employ a qualified engineer experienced in the design and construction of dams and reservoirs to direct the dam safety program. Proposed AS 46.17.040 would make it unlawful for anyone to construct, enlarge, repair, alter, remove, maintain, operate, or abandon a dam or reservoir, as defined in the bill, except upon application to, and approval of, the department. To ensure that dams and reservoirs remain safe once constructed, the department is directed in proposed AS 46.17.050 to inspect or to require owners to inspect dams and reservoirs covered under the bill at least once every five years, or more frequently if necessary. To ensure that it can make adequate inspections, the department is also given authority, in proposed AS 46.17.060, to enter the private property on which the dam or reservoir is located as might be necessary to make the inspection. Proposed AS 46.17.050 also authorizes the department to require owners to bear the costs of inspection.

Proposed AS 46.17.070 sets out specific standards for determining the safety of a dam or reservoir. In addition, the department is allowed, by proposed AS 46.17.110, to enter into cooperative management agreements with municipal corporations and other state and federal agencies to effectuate its responsibilities under the bill. To ensure that the state's action in inspecting and regulating the operation of dams or reservoirs does not shift the liability of the private owner to the state for loss of life or property damage due to a dam or reservoir failure, proposed AS 46.17.120 bars any action against the state based on any purported act or omission of a state agent or employee connected with the dam safety program.

Section 1 of the bill amends AS 11.56.800(a), dealing with the crime of making a false report. A new paragraph (4) will make it a crime to file a false report with the Department of Natural Resources concerning the condition of a dam or reservoir. Additional criminal sanctions are also contained in sec. 2 of the bill in proposed AS 46.17.100, which would make it a class A misdemeanor to violate any provision of AS 46.17 or lawful order the department issues under AS 46.17.

The Honorable Arliss Sturgulewski -3-

March 30, 1987

Recommendation: Given the importance of a good dam safety program to the State of Alaska, the Department of Natural Resources favors passage of this legislation.

Sincerely,

Judith M. Brady  
Commissioner

cc: Senate Transportation Committee  
George Sullivan  
Rod Swope

No 203

JK

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

SENATE  
BILL VERSION: SB 183 a  
PUBLISH DATE: 4/3/87

REQUEST: \_\_\_\_\_  
Revision Date: \_\_\_\_\_  
Title: An act relating to dams and reservoirs  
Sponsor: Sprunglauskj  
Requestor: \_\_\_\_\_

Agency Affected: Natural Resources  
BRU: Land and Water Management  
Component: Land and Water Public Use

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	65.0	65.0	65.0	65.0	65.0
OTHER	0	0	0	0	0	0
TOTAL	65.0	65.0	65.0	65.0	65.0	65.0

POSITIONS:

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

ANALYSIS :

Senate Bill No. 183 will qualify DNR's Dam Safety Program to qualify for at least 65.0 federal funding under P.L. 99-662 for five years. No increases in state expenditures will occur as a result of this legislation.

Prepared by: Kyle J. Cherry Phone: 562-3332  
Division: Land and Water Management Date: 3/26/87

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)
  - Senate Secretary

No 204  
FX

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

SENATE

BILL VERSION: SB 183 b

PUBLISH DATE: 4/3/87

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_

Title: Relating to dams and reservoirs

Agency Affected: Environmental Conservation

BRU: N.A.

Sponsor: Senator Sturgulewski

Requestor: Senator Jones--Transportation

Components: N.A.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

Prepared by: Randy Bayliss

Phone: 465-2600

Division: Office of the Commissioner

Date: March 17, 1987

Approved by Commissioner: [Signature]

Date: 3/18/87

Agency: Environmental Conservation

Distribution (by preparer):

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

No. 205

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
 FISCAL NOTE

SENATE  
 BILL VERSION: SB 183 c  
 PUBLISH DATE: 4/3/87

REQUEST: \_\_\_\_\_  
 Revision Date: \_\_\_\_\_  
 Title: "An Act relating to dams and reservoirs..."  
 Sponsor: Sen. Sturgulewski  
 Requestor: Senate Transportation

Agency Affected: Department of Law  
 BRU: Prosecution, Legal Services  
 Components: Prosecution - All  
Legal Services - Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS :

Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: March 18, 1987  
 Approved by Commissioner: Grace Berg Schaible, Atty. Gen. Date: March 18, 1987  
 Agency: Department of Law

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)
  - Senate Secretary

# ALASKA STATE LEGISLATURE

SB 183

Sen. Lloyd Jones, Chairman  
Sen. John B. "Jack" Coghill, Vice Chairman  
Sen. Mitch Abood  
Sen. Bettye Fahrenkamp  
Sen. Tim Kelly



P.O. Box V  
Juneau, AK 99811

907-465-4921

## Senate Transportation Committee

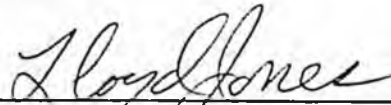
### COMMITTEE REPORT

Madame President:

The transportation committee expresses that it is not the intent, either through Senate Bill 183, nor through regulations, that the bill affect settling ponds of small placer miners.

The transportation committee also asks to see and review the regulations that are promulgated to implement the legislation.

Sincerely,

 4/2/87  
\_\_\_\_\_  
Senator Lloyd Jones, Chairman  
Senate Transportation Committee

## Flood Watch

### Dams' Safety Worries Officials Who Believe Repairs Are Lagging

Earthquakes and Other Risks  
Give Nightmares to Some  
Despite a Recent Respite

### Stitching Up a TVA Crack

By BRUCE INGERSOLL

Staff Reporter of THE WALL STREET JOURNAL  
MONCKS CORNER, S.C. — The 1983 dam scare here is remembered as "the peril at Pinopolis."

On a languid summer morning, the West Pinopolis Dam suddenly sprang an enormous leak, setting off alarms in the powerhouse. While the police rapped on doors to evacuate downstream residents, emergency workers struggled to keep the huge dam from collapsing. They tried plugging the leak with weighted bales of hay. They tried steel plates. Increasingly desperate, they bought a furniture store's entire stock of mattresses, only to find them too buoyant. Finally, they slapped together a makeshift dam with pile-driven utility poles.

A disaster was averted—for the time being. But federal dam regulators worry that West Pinopolis is one of many dams around the country that would collapse if a severe earthquake hit. Hundreds of dams couldn't withstand a major flood. Thousands more have fallen into disrepair, some leaking or slumping so badly that they are in danger of collapse.

"One of these dams, Mother Luck isn't going to hold," warns William Byrns, the dam safety coordinator for the Federal Emergency Management Agency. "One of these high-hazard dams is going to pop at night when everybody is asleep. It will wipe out thousands of people."

#### Recent Dam Breaks

But to some top officials, warnings about dam disasters are overblown, and in most states public interest in dam safety is low. In the 1970s, nearly 500 people died in six major U.S. dam breaks, but in the 1980s the fatalities have been few in this country, though a 1985 dam break in Italy killed more than 220 people.

Meanwhile, dam-safety initiatives have been slowed by tight budgets, bureaucratic inertia and the lack of a political constituency. "All of our constituents are dead people," says safety advocate Bruce Tschantz, a professor of civil engineering at the University of Tennessee.

Of the 80,000 or so dams in the U.S., about 8,000 are owned or regulated by federal agencies. The rest are owned by farmers, ranchers, developers, utilities or states and municipalities. Most major dams are owned and maintained by big agencies such as the Pentagon's Army Corps of Engineers and the Interior Department's Bureau of Reclamation.

The bureau is still haunted by the 1975 collapse of the Teton Dam in Idaho as it was being filled for the first time, killing 11 people. One-fifth of the bureau's 300 dams, all in the West, are classified as unsafe. Critics say the bureau doesn't treat dam safety as a priority. Bureau officials disagree, but since 1980 the agency has spent only 11% of \$750 million authorized by Congress for safety "modifications."

Internal documents obtained from the Corps of Engineers, meanwhile, show that a superflood would overwhelm at least 20 of that agency's 600 dams, engulfing such communities as Houston and Valley City, N.D. The corps is also studying how well several structures, including two dikes on the Clemson University campus in South Carolina, would hold up in a major earthquake. If the dikes failed, the football stadium, dubbed "Death Valley" by Clemson's foes, would be swamped. Overall, "We are concerned about 36 dams," says Lloyd Duscha, the corps' deputy director of engineering and construction.

Remedial efforts have been limited, however. Some cost-conscious Reagan administration appointees haven't shared agency engineers' sense of urgency. "Bureaucratic engineers always try to figure out a way to perpetuate themselves and build up their budgets," asserts William Gianelli, who in recent years oversaw the corps as assistant Army secretary for civil works.

#### Underfunded and Undermanned

On the state level, the number of unsafe dams has been reduced to 1,948 from about 2,900 in 1981, according to a survey for the Federal Emergency Management Agency. Many dam owners simply dismantled their aging structures rather than make repairs. But the survey says that only 21 states have adequate regulatory programs and that the rest are underfunded and undermanned.

For Joseph Ellam, Pennsylvania's director of dam safety, the situation is unsettling. "Catastrophic failures have occurred before, and they will occur again," he warns. "With the exception of nuclear power plants, no man-made structure has a greater potential for killing a large number of people than a dam."

The West Pinopolis Dam, 30 miles from Charleston, S.C., is one such dam.

Although the dam now is in good repair, earthquake experts believe it would fail in the event of an earthquake as powerful as the devastating Charleston earthquake of 1886, which killed 36 persons and caused panic as far away as Cleveland.

If the dam failed, some 2,000 residents along the Cooper River "wouldn't have any time to run for their lives," says Ronald Corso, the director of hydropower licensing for the Federal Energy Regulatory Commission.

Please Turn to Page 18, Column 1

## Flood Watch: The Safety of Some Dams Worries Officials Who Believe Earthquakes Pose Big Threat

Continued From First Page

mission. The flood would engulf the Charleston Naval Yard and the Atlantic Fleet's nuclear-weapons arsenal as well as a major industrial corridor, causing \$1 billion in damage. It would also clog Charleston's harbor with silt, closing a key port for the Navy.

The dam is vulnerable to an extraordinary phenomenon known as "liquefaction," Mr. Corso says. Seismic shock waves could "liquefy" the sand in the dam's foundation, turning it into quicksand or "mush." The shuddering dam would quickly slump, spilling the waters of Lake Moultrie in a thunderous rush.

The dam's owner, South Carolina Public Service Authority, also known as Santee Cooper, calls the chance of such a disaster remote, but the state-owned utility, under federal pressure, has agreed to strengthen the dam. "We don't care where they get the money so long as they fix it," Mr. Corso says.

### Other Worries

The energy regulatory commission has worried about more than 100 of the 2,000 dams it regulates and has ordered several utilities to make repairs. Montana Power Co., for one, is rehabilitating an ice-battered dam near Missoula to protect the Clark Fork River. It holds back tons of waste smelting waste in the bottom silt. Mr. Corso says, "If you dump that waste down the river, it will be the biggest mess known to mankind."

The Tennessee Valley Authority has pared its list of unsafe dams to 14 from 21. Fanning Fontana Dam in western North Carolina is a high priority. At 480 feet, Fontana is the tallest dam east of the Rocky Mountains. The upper part of the dam needs reinforcing against a major earthquake. And an alarming 100-foot-long crack in the concrete has reopened and requires restitching with cables.

In Wyoming, Reclamation Bureau officials are keeping close watch on the badly leaking Fontenelle Dam on the Green River. The same sort of seepage that caused a near-failure in 1965 is undermining the dam. The officials are keeping the reservoir level as low as possible, rather than risk deluging Green River. Wyo., (population: 13,000), but they admit to being at "Mother Nature's mercy."

Last summer, so much melted snow came down from the mountains that officials couldn't discharge water fast enough to keep the reservoir from refilling. "We baby-sat that dam night and day," says one Reclamation Bureau official. "We had two bulldozer operators there 24 hours a day."

### Support Is Lacking

For years, federal officials in the field have been warning their superiors about Fontenelle and other deteriorating dams. But cumbersome cost-sharing arrangements and assistance from the White House budget office have limited the Reclamation Bureau's efforts to a few projects. While the agency has begun budgeting more money for dam safety, many other projects will have to wait.

It takes a long time to get momentum building behind a program, especially when it doesn't have high administration

support," says Neil Parrett, the bureau's chief of dam design. "We all could do better. But I celebrate the progress we've made to reduce the threat out there."

The Reclamation Bureau, like most of its regulatory brethren, has been slow to bring its substandard dams into compliance with the latest safety guidelines, as ordered by President Jimmy Carter in 1979. Federal dams should be stable enough to withstand the "maximum credible earthquake," usually defined as the quake from a known source like California's San Andreas Fault that could cause the most severe "infraterritorial ground motion" at a dam site.

Under the guidelines, federal dams should also have enough spillway capacity to discharge the "probable" maximum flood. "Hydrologists calculate such a flood on the basis of the worst combination of meteorological and hydrological events likely to occur in watershed. In the Rockies, for example, it could be heavy rains mixed with a record snowmelt."

### The 'Overtopping' Problem

Several Reclamation Bureau dams, including four on the Salt River and two on the Verde River in Arizona, are vulnerable to "overtopping" by a superflood. The crucial dam is a national historic monument, Theodore Roosevelt Dam. If it were overtopped by the probable "maximum flood" on the Salt, the top of the dam would crumble, triggering a "domino effect," says the bureau's Mr. Parrett.

The flood would heavily damage two downriver dams, knock out a third and surge on toward Phoenix. "Phoenix gets drowned," Mr. Parrett says. An estimated 250,000 people would be flooded; property damages would hit \$9.5 billion.

The Corps of Engineers has made even less headway than the Reclamation Bureau, largely because of budget ceilings and high-level skepticism at the Pentagon about probable maximum floods. The corps under Mr. Gianelli undertook only two dam modifications between 1981 and 1984. In contrast, the much smaller TVA started five. Mr. Gianelli, now an engineering consultant in California, says that the corps could never explain to his satisfaction how it calculated the probable maximum flood.

Prado Dam, perched in a canyon above suburban Los Angeles, is one project that Mr. Gianelli held up. If the dam failed, the probable maximum flood on the Santa Ana River would inundate 1.3 million residents in Anaheim and other suburbs and cause as much as \$40 billion in damages, mostly in Orange County, according to the corps's risk assessment.

Mr. Gianelli, who served as California's water resources director under Gov. Ronald Reagan, remains unpersuaded. "That dam has been there 50 years," he says. "It has never filled to the point where the spillway is even used. You fix a dam if it's leaking."

### Delaying Repairs

In the private sector, meanwhile, dam safety continues to lag. Some farmers scoff at warnings that the dams they built with the Soil Conservation Service's assistance are about to flood out their neighbors. And many corporate dam owners put off costly

repairs.

"It's the last place anybody wants to spend money," says Gerald W. Farquhar, a Washington attorney. "Everybody says it'll be the other fellow's dam that goes."

Among state governments, money for regulating dams remains tight. While California leads the nation with a \$3.8 million budget and a 60-person staff, most states make do with much less—on average, \$255,000 a year. Some states, including Delaware, Alabama and Hawaii, don't yet have a semblance of a dam-safety program.

Pennsylvania, however, has accomplished more than most federal agencies, whittling its backlog of 208 unsafe dams to 72 in five years. More than \$50 million, including low-interest state loans, has gone into dam repairs, usually under consent agreements with the state. The Pennsylvania Gas & Water Co. has agreed to fix 16 water-supply dams, while the Greater Johnstown Water Authority has promised to fix or dismantle the Salt Lick Dam near the site of a famous dam-break nearly a century ago.

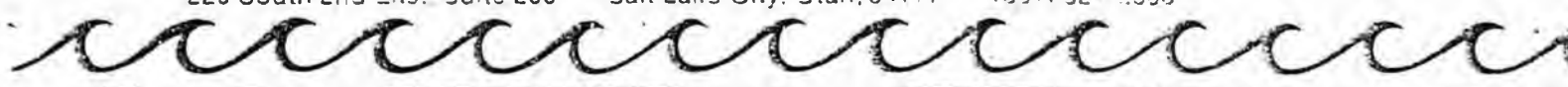
"If Salt Lick were to fail," says the state's Mr. Ellum, "it would be as bad as the great Johnstown Flood of 1889, the greatest catastrophe in U.S. history," that swept 2,200 persons to their deaths.

# WESTERN STATES WATER



SB  
183

220 South 2nd East, Suite 200 Salt Lake City, Utah, 84111 (801) 521-2900



A weekly report prepared by the staff of the Western States Water Council

Tony Willardson - Editor

## WATER RESOURCES

Issue #671, March 27, 1987

### Dam Safety

On March 19, the Wall Street Journal carried a front page article on dam safety. It addressed progress and problems in current federal and state programs. Of some 80,000 U.S. dams, about 10% are owned or regulated by federal agencies. The rest are controlled by state and local governments and private interests. On the state level, a Federal Emergency Management Agency (FEMA) report lists 1948 unsafe dams, down from 2,900 in 1981. California's regulatory program involves a staff of 60 and a \$3.5M budget. Pennsylvania also has an exemplary program. Over five years, the number of unsafe dams in the state has been reduced from 208 to 72, in part with the help of \$50M in low interest state loans, usually under consent agreements. However, nationally, state program expenditures average \$265,000 a year. The FEMA survey found only 21 states with adequate regulatory dam safety programs. Many are underfunded or undermanned. Alabama, Delaware and Hawaii have no dam safety programs. During this era of tight budgets, expenditures for dam safety programs or repairs are not always a high priority. The Corps FY88 budget request includes no funding for the newly authorized non-federal dam safety program grants under P.L. 99-662. Further, from 1981 to 1984, the Corps of Engineers undertook only two safety related dam modifications. Reportedly 20% of the Bureau of Reclamation's 300 dams are classified as unsafe. While the Bureau has increased its request for dam safety funds, since 1980 only about 11% of \$750M authorized for safety modifications has been spent.

High hazard dams, or those where failure would mean the loss of life, are of greatest concern. Political pressure for federal action probably peaked after the 1976 Teton Dam disaster in Idaho, which killed eleven people. The article notes that in the 1970's, "nearly 500 people died in six major U.S. dam breaks." There have been few fatalities in the 1980's. However, according to William Bivins, FEMA Dam Safety Coordinator, "One of these times, Mother Luck isn't going to hold. One of these high hazard dams is going to pop at night when everyone is asleep in bed. It will wipe out hundreds of people." Joseph Ellam, Pennsylvania's Director of Dam Safety and past president of the Association of State Dam Safety Officials (ASDSO), notes, "Catastrophic failures have occurred before and they will occur again. With the exception of nuclear powerplants, no man-made structure has a greater potential for killing a large number of people than a dam." In Pennsylvania, the Greater Johnstown Water Authority is under order to fix or dismantle its Salt Lick Dam. The dam is located near the site where a dam failed during the great Johnstown flood of 1889, which killed 2,200 people.

How safe is safe? This question is not easily answered. Federal guidelines require federal dams to withstand the "maximum credible earthquake," and have a spillway capacity to pass the "probable maximum flood." Defining and implementing these requirements leaves substantial room for professional disagreement. William Gianelli, former Assistant Secretary of the Army for Civil Works and former Director of the California Department of Water Resources, states the Corps could never explain to his satisfaction how it calculated the probable maximum flood. According to the Corps, if Prado Dam on the Santa Anna River above Los Angeles failed during the probable maximum flood, it would inundate 1.3 million homes with \$40B in damages. However, Gianelli notes, "That dam has been there fifty years. It has never filled to the point where the spillway is even used. You fix a dam if it's leaking." In 1983, the West Pinopolos Dam in South Carolina suddenly sprang an enormous leak. While police evacuated downstream residents, emergency personnel worked feverishly to stop

the leak, finally using a makeshift dam of pile-driven utility poles. Owned by the South Carolina Public Service Authority, a state-owned utility, the dam is 30 miles above Charleston on the Cooper River. According to Ronald Corso, Director of the Inspections Division for the Federal Energy Regulatory Commission, if the dam failed, some 2,000 residents "wouldn't have time to run for their lives." While the dam is now in good repair, Corso says an extraordinary earthquake, such as hit Charleston in 1886, could liquefy the dam's foundation. The resulting flood would cause an estimated \$1B in damages to a major industrial corridor, the Charleston Naval Yard and the Atlantic Fleet's Nuclear-weapons Arsenal, finally clogging Charleston Harbor with silt and closing this key Navy port. Under federal pressure, the utility has agreed to strengthen the dam. According to Corso, "We don't care where they get the money, so long as they fix it."

This raises another problem. How do you finance needed dam safety repair work? In 1984, a survey by the Western States Water Council identified 665 dams in fifteen western states with safety problems. The rough cost estimate for rehabilitation totaled over \$316M. Private financial sources are often limited or unavailable. Dam safety work seldom produces new revenues to pay back bonds. State and local budgets are also tight. The Reagan Administration has opposed federal funding for non-federal dam safety work. As a result, last year Congress dropped from the Corps omnibus legislation provisions authorizing federal financial and technical assistance, including allowing the Corps of Engineers to repair non-federal dams on a reimbursable basis. However, as illustrated above, the impact of a non-federal dam failure could have a tremendous impact on national interests. Without government funding and regulatory action, with respect to many dams, we are at Mother Nature's mercy. According to Charles Gardner, ASDSO President, "We need to get the message across that dam safety deserves a high priority (see WSW #664)."

#### Reclamation Act/Surplus Crops

On March 5, Representative Sam Gejdenson (D-CT), introduced the Irrigation Subsidy Reform Act of 1987 (H.R. 1443). The bill would amend the Reclamation Projects Act of 1939 to require the Secretary of Interior to charge full cost for the delivery of water used "in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provision of the Agricultural Act of 1949 (7 U.S.C. 1421 et sec.)." The term "full cost" would be defined by Section 202(3) of the Reclamation Reform Act of 1982 (43 U.S.C. 390(b)(3)). This change would apply to all new or amended contracts after the date of enactment. The Secretary would set the amount of the "full cost" payment, for the succeeding year, on or before July 1 of each year. In addition to Mr. Gejdenson, H.R. 1443 has twenty-one co-sponsors from the States of California, Connecticut, Illinois, Indiana, Iowa, Massachusetts, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, Vermont and Wisconsin. Given the apparent concern over subsidizing production of surplus crops, it is interesting to note that many of the above states have a vested interest in this issue. For FY84, federal expenditures for Commodity Credit Corporation price supports and related programs were highest in the following twelve states, which are listed by rank: California, Pennsylvania, Illinois, New York, Indiana, Michigan, Texas, Ohio, Kentucky, Louisiana, and Minnesota. The 99th Congress authorized a study of production of surplus crops in reclamation states in passing H.R. 3113, which also authorized an additional \$600M for the Bureau of Reclamation's Small Projects Loan Program (see WSW #648).

#### WESTERN STATES WATER COUNCIL

##### Water Policy Seminar

On Thursday, April 30, in conjunction with its 86th quarterly meetings, the Western States Water Council will sponsor a Water Policy Seminar in Washington, D.C. The Seminar will be held at the Hall of the States, Rooms 263-265, 444 North Capitol Street. The meeting is scheduled from 9:00 a.m. to 3:45 p.m. At 4:30 p.m., the Council will sponsor a reception in the Senate Dirksen Office Building. Topics to be considered are Groundwater Quality Protection, the Federal Role in Water Transfers, and FERC Hydropower Licensing and State Water Law. A variety of speakers have been invited to participate. Call (801) 521-2800 for more information.

S B

190

# HOUSE COMMITTEE REPORT

(9)

5/18/87

Date referred:

FURTHER REFERRALS:

DATE: 3-3-88

The Resources Committee has considered <sup>SB 190</sup> \_\_\_\_\_

"An Act relating to establishing the Point Bridget State Park; and providing for an effective date."

**RECOMMENDS:**

- replace with HCS SB 190 (Res)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**

HCS SB 190 (Res) letter of intent (New 3/3/88)

*New letter of intent Adopted 3/22/88 - attached*

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

Jim Gt

[Signature]

[Signature]

Wip Miller

\_\_\_\_\_

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**SIGNING OTHER RECOMMENDATIONS:**

Dick Shultz *Don't deny people rights they have earned for 70 years.*

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\_\_\_\_\_

Jim Gt

Chairman's signature

Adopted  
3-22-88

HOUSE RESOURCES COMMITTEE  
HCS SENATE BILL 190 (RESOURCES)  
Amended Letter of Intent

It is the intent of the legislature that the Department of Natural Resources, Division of Parks and Recreation, for a period of five years after enactment of Senate Bill 190, permit the Gospel Missionary Union to continue riding and grazing the current number of horses and to cut hay for the horses on the Point Bridget State Park land, providing the stipulated uses do not inhibit or interfere with the public use of the Point Bridget State Park and subject to other reasonable conditions provided by the Department of Natural Resources.

The Legislature further instructs the Department of Natural Resources to assist the Gospel Missionary Union in identifying alternatives to fill their future needs related to their horses after the five year grace period has expired.

Sam Cotten

Rep. Sam Cotten  
co-chair

Adelheid Herrmann

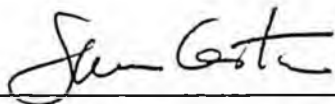
Rep. Adelheid Herrmann  
co-chair

3/3/88

LETTER OF INTENT FOR HCS SB 190 (RESOURCES)  
AN ACT ESTABLISHING THE POINT BRIDGET STATE PARK  
Offered by the House Resources Committee

It is the intent of the Legislature that the Department of Natural Resources, Division of Parks and Recreation issue a permit to the Gospel Missionary Union to allow continued grazing of the current number of horses on the Point Bridget State Park lands for five years, providing the grazing does not inhibit or interfere with the public use of the Point Bridget State Park.

The Legislature further instructs the Department of Natural Resources to assist the Gospel Missionary Union in identifying alternatives to fill their future needs related to their horses after the five year grace period has expired.



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Representative Sam Cotten, co-chair  
House Resources Committee

FISCAL NOTE

REQUEST:

Revision Date: 1/21/88  
Title: Pt. Bridget State Park

Agency Affected: Natural Resources  
BRU: Park Management

Sponsor: Luncan  
Requestor: House Resources

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The Department plans to use existing staff as available, and volunteers, to passively manage the proposed park.

Prepared by: Neil Johannsen Phone: 762-2600  
Division: Parks & Outdoor Recreation Date: 1/21/88

Approved by Commissioner: Luncan Date: 1/21/88  
Agency: Natural Resources

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

3/3/88

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AN ACT ESTABLISHING THE POINT BRIDGET STATE PARK

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The Legislature further instructs the Department of Natural Resources to assist the Gospel Missionary Union in indentifying alternatives to fill their future needs related to their horses after the five year grace period has expired.

Original sponsor: Duncan

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 190 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Point Bridget State Park;  
7 and providing for an effective date."

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

9 \* Section 1. AS 41.21 is amended by adding new sections to read:

10 Sec. 41.21.180. PURPOSE OF AS 41.21.180 - 41.21.184. (a) The  
11 purpose of AS 41.21.180 - 41.21.184 is to establish, subject to valid  
12 existing rights, the state-owned or acquired land described in AS 41.-  
13 21.182 as the Point Bridget State Park. The primary purposes of  
14 establishing the Point Bridget State Park are to protect the area's  
15 recreational and scenic resources and to preserve and enhance the  
16 continued use of the area for hunting and fishing and recreational  
17 activities.

18 (b) The legislature recognizes the rights of the owners of the  
19 private land that adjoin the Point Bridget State Park established in  
20 AS 41.21.180 - 41.21.184. The legislature further recognizes the  
21 value of the services provided by the owners of the adjacent land to  
22 the residents of the state. The establishment of the park will not  
23 impair the use of the private land by the owners of the private land  
24 nor the right of a riparian owner of private land to seek title to  
25 accreted land.

26 (c) If requested by an owner of land, the department may pur-  
27 chase or enter into an exchange under AS 38.50 if the purchase or  
28 exchange will improve access to the park, consolidate the ownership of  
29 land, or otherwise enhance the purposes of the park as expressed in

1 this section. Land acquired by the department under this subsection  
2 becomes a part of the Point Bridget State Park.

3 Sec. 41.21.182. POINT BRIDGET STATE PARK ESTABLISHED. The  
4 state-owned land and water within the following described parcels and  
5 any land acquired by the state under AS 41.21.180(c) are established  
6 as the Point Bridget State Park:

7 All state land lying within the following unsurveyed sections:

8 Township 37 South, Range 63 East, Copper River Meridian

9 Section 10: E1/2

10 Section 11: excluding Native Allotment A-C51005

11 Section 12: W1/2, excluding USS 2925, Interim

12 Conveyance 408, and Native Allotment A-061005

13 Section 13: W1/2 and W1/2E1/2, excluding USS 1154,

14 USS 1157, and Interim Conveyance 408

15 Section 14

16 Section 15: E1/2

17 Section 23: N1/2

18 Section 24: NE1/4, excluding Interim Conveyance 408

19 and the Glacier Highway right-of-way

20 Sec. 41.21.184. DESIGNATION OF MANAGEMENT RESPONSIBILITY. (a)

21 The state-owned land and water described in AS 41.21.182 is assigned  
22 to the department for control, maintenance, and development consistent  
23 with the purposes and provisions of AS 41.21.180 - 41.21.184.

24 (b) The Department of Fish and Game is responsible for the  
25 management of fish and game resources in the Point Bridget State Park,  
26 consistent with the sustained-yield principle and the purposes and  
27 provisions of this chapter. The Board of Fisheries, the Board of  
28 Game, and the commissioner of fish and game are responsible for adopt-  
29 ing regulations governing uses of fish and game under AS 16. The fish

1 and game habitat and breeding areas shall be managed to ensure that  
2 the fish and game resources of the park continue on a sustained-yield  
3 basis.

4 (c) The department shall consult with the Department of Fish and  
5 Game before adoption of regulations governing public use of the Point  
6 Bridget State Park.

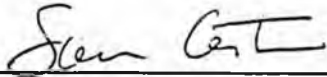
7 (d) The Department of Fish and Game shall consult with the  
8 department before adoption of regulations governing fish and game  
9 management in the Point Bridget State Park.

10 \* Sec. 2. This Act takes effect July 1, 1988.

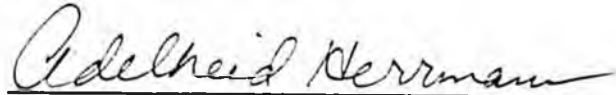
HOUSE RESOURCES COMMITTEE  
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The Legislature further instructs the Department of Natural Resources to assist the Gospel Missionary Union in identifying alternatives to fill their future needs related to their horses after the five year grace period has expired.



Rep. Sam Cotten  
co-chair



Rep. Adelheid Herrmann  
co-chair

*DS*

ECHO RANCH BIBLE CAMP  
PROPOSED AMENDMENTS TO SB 190  
MARCH 3, 1988

(A) AMEND SEC. 41.21.182 ON PAGE 2 AS FOLLOWS:

*4030*  
*6-1*

LINE 10 SECTION 11: EXCLUDING NATIVE ALLOTMENT A-061005 AND  
ALL TIDELANDS EAST OF COWEE CREEK

LINE 11 SECTION 12: W1/2, EXCLUDING USS 2925, INTERIM  
CONVEYANCE 408, NATIVE ALLOTMENT A-061005, AND ALL  
TIDELANDS EAST OF COWEE CREEK

(B) AMEND SEC. 41.21.184 (a) AS FOLLOWS:

*Handwritten*  
*H-1*

LINE 23 . . . 41.21.184 EXCEPT THAT PREEXISTING USES OF THE  
LAND AND WATER INCORPORATED WITHIN THE PARK BY ADJACENT  
PRIVATE PROPERTY OWNERS SHALL BE PERMITTED TO CONTINUE  
AT THE LEVEL WHICH EXISTED PRIOR TO THE EFFECTIVE DATE  
OF THIS ACT.

Original sponsor: Duncan

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
2 HOUSE CS FOR SENATE BILL NO. 190 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

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14 establishing the Point Bridget State Park are to protect the area's  
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17 activities.

18 (b) The legislature <sup>recognizes</sup> ~~respects~~ the rights of the owners of the  
19 private land that adjoin the Point Bridget State Park established in  
20 AS 41.21.180 - 41.21.184. The legislature further recognizes the  
21 value of the services provided by the owners of the adjacent land to  
22 the residents of the state, ~~and does not, by~~ the establishment of the  
23 park, <sup>will not</sup> ~~intend to~~ impair the use of the private land by the owners of  
24 the private land <sup>nor</sup> ~~or~~ the right of a riparian owner of private land to  
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26 (c) If requested by an owner of land, the department may pur-  
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this section. Land acquired by the department under this subsection becomes a part of the Point Bridget State Park.

Sec. 41.21.182. POINT BRIDGET STATE PARK ESTABLISHED. The state-owned land and water within the following described parcels and any land acquired by the state under AS 41.21.180(c) are established as the Point Bridget State Park:

All state land lying within the following unsurveyed sections:

Township 37 South, Range 63 East, Copper River Meridian

Section 10: E1/2

Section 11: excluding Native Allotment A-061005

Section 12: W1/2, excluding USS 2925, Interim Conveyance 408, and Native Allotment A-061005

Section 13: W1/2 and W1/2E1/2, excluding USS 1154, USS 1157, and Interim Conveyance 408

Section 14

Section 15: E1/2

Section 23: N1/2

Section 24: NE1/4, excluding Interim Conveyance 408 and the Glacier Highway right-of-way

Sec. 41.21.184. DESIGNATION OF MANAGEMENT RESPONSIBILITY. (a) The state-owned land and water described in AS 41.21.182 is assigned to the department for control, maintenance, and development consistent with the purposes and provisions of AS 41.21.180 - 41.21.184.

(b) The Department of Fish and Game is responsible for the management of fish and game resources in the Point Bridget State Park, consistent with the sustained-yield principle and the purposes and provisions of this chapter. The Board of Fisheries, the Board of Game, and the commissioner of fish and game are responsible for adopting regulations governing uses of fish and game under AS 16. The fish

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and game habitat and breeding areas shall be managed to ensure that the fish and game resources of the park continue on a sustained-yield basis.

(c) The department shall consult with the Department of Fish and Game before adoption of regulations governing public use of the Point Bridget State Park.

(d) The Department of Fish and Game shall consult with the department before adoption of regulations governing fish and game management in the Point Bridget State Park.

\* Sec. 2. This Act takes effect July 1, 1988.

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
BUREAU ALASKA 99511  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 2, 1988

SUBJECT: House Joint Resolution urging Congress to restore the exemption from the federal excise tax on taxable fuels for certain diesel fuel users. (Work order 5-2022B)

TO: Representative Cliff Davidson  
ATTN: Heather Bradner

FROM: Jack Chenoweth  
Legislative Counsel

The draft incorporating requested changes is enclosed.

Though I adhered to the suggested language, I do not agree with the change requested in the third "WHEREAS": the excise tax on diesel fuel has been imposed on the sale of taxable fuel by a retail dealer to the ultimate consumer of the fuel; what, I understand, the federal government has long exempted from the excise tax are retail sales of certain fuels that are used by the ultimate consumers for certain exempt purposes. It is the loss of that exemption to which this resolution is addressed.

Enclosure

JBC:bb  
wkb3/063

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 HOUSE JOINT RESOLUTION NO. 165

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 Urging Congress to restore the exemption  
6 from the federal excise tax on taxable  
7 fuels for certain diesel fuel users.

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

9 WHEREAS the State of Alaska has an extensive coastline, an economy  
10 dependent on resource extraction and development, and long transportation  
11 lines between principal commercial centers; and

12 WHEREAS transportation, commerce, and economic development in the  
13 state are greatly dependent on the use of tax exempt fuels, especially  
14 diesel fuel, by marine fuel consumers and by other fuel users engaged in  
15 resource development and transportation; and

16 WHEREAS the federal government has long exempted from the excise tax  
17 diesel fuel sold by a wholesale dealer to the ultimate consumer of the  
18 fuel; and

19 WHEREAS, under the provision that allowed tax-free sales for certain  
20 exempt sales purposes, most Alaskans who purchased diesel fuels for off-  
21 road use involving, among other activities, commercial fishing, timber,  
22 mining, farming, ranching, and marine transportation operations, did not  
23 pay the federal excise tax; and

24 WHEREAS the Omnibus Budget Reconciliation Act (P.L. 100-203) requires  
25 the collection of diesel fuel taxes at the wholesale level and repeals the  
26 provision allowing tax-free sales of diesel and other fuels for certain  
27 exempt purposes; and

28 WHEREAS, under that Act, effective April 1, 1988, except for sales of  
29 fuel destined for use as heating oil, all sales involving diesel fuel

1 beyond the wholesale level are subject to the excise; and

2 WHEREAS, to implement authority given to the United States Treasury to  
3 make exemptions from the tax, regulations proposed by the Internal Revenue  
4 Service establish a system by which persons who qualify for exemption from  
5 the federal excise tax and who claim the benefit of exemption may, with  
6 documentation of the fuel's nontaxable use, apply for a refund of the  
7 amount of the excise tax that the person has paid, either quarterly, if the  
8 person pays more than \$1,000 per calendar quarter, or annually, as an  
9 adjustment to the person's individual income tax; and

10 WHEREAS the tax collection procedure imposed by this Act requires each  
11 purchaser of diesel fuel in the marketing chain to remit the tax, adding to  
12 the heavy cash flow burden of each party; and

13 WHEREAS the repeal of the exemption and substitution of the refund  
14 system will have a generally negative effect on the state's domestic econo-  
15 my by reducing the profit margins of many small ventures engaged in ag-  
16 riculture, commercial fishing, and other resource extraction and develop-  
17 ment activities; and

18 WHEREAS, in a highly competitive seafood industry that is undercapi-  
19 talized and often economically uncertain, repeal of the exemption and  
20 imposition of the federal excise tax, even with a refund provision, will  
21 have an extraordinarily detrimental effect by making it more difficult for  
22 domestic marine fuel suppliers and consumers who use the fuel in fishery  
23 activities to compete against foreign flag operators;

24 BE IT RESOLVED by the Alaska State Legislature that the Alaska Con-  
25 gressional delegation is urged to introduce and support passage of legis-  
26 lation restoring the exemption from payment of the federal excise tax on  
27 sales of diesel fuel in place of the amendments made by the Omnibus Budget  
28 Reconciliation Act.

29 COPIES of this resolution shall be sent to the Honorable Ted Stevens

1 and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don  
2 Young, U.S. Representative, members of the Alaska delegation in Congress.

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# STATE OF ALASKA

HOUSE OF REPRESENTATIVES

Box V, Juneau, Alaska 99801

(907) 465-2487 • 465-2498


REPRESENTATIVE CLIFF DAVIDSON

District 27

Box 746, Kodiak, Alaska 99615

## MEMORANDUM

TO: Members of the Resources Committee

FROM: Representative Davidson 

DATE: March 1, 1988

SUBJECT: Committee legislation

I ask your support in passing a resolution by the Resources Committee.

This resolution requests Congress to preserve the way they collect the fifteen cent per gallon federal excise tax on diesel fuel.

Under legislation passed last December, tax exempt categories must first pay the tax, and apply for a refund later. Under current practice, these tax exempt categories do not pay the tax at all.

While still technically exempt, the way the federal government will collect this tax unnecessarily raises the cost of doing business for many Alaskans. It will restrict their cash flow, increase paperwork and is essentially an interest free loan to the government.

This resolution asks Congress to reinstate the current practice and repeal the proposed changes, which take effect April 1, 1988.



## NATIONAL FISHERIES INSTITUTE, INC.

2010 M STREET, N.W., STE. 580 ■ WASHINGTON, D.C. 20036 ■ (202) 296-5000

February 12, 1988

## TAX ALERT

## ACTION REQUESTED

## NFI VESSEL OPERATORS

Vessel operators should be aware that as of April 1, 1988:

- o The up-front exemption from federal excise taxes will be repealed for diesel fuel purchased by fishery vessels.
- o Diesel fuel used for vessels will continue to be nontaxable, but operators will be required to pay a 15.1 cents per gallon tax when purchasing fuel, then apply to the Treasury Department on a quarterly basis for a refund.

NFI is asking Congress to restore the up-front exemption for our industry. You are urged to contact your Senators and Representatives and urge them to sponsor legislation to permit tax-free sales of diesel fuel for fishery vessels.

## BACKGROUND

A provision in the 1987 Budget Reconciliation Act passed in December requires federal excise taxes on diesel fuel to be collected at the wholesale level and repeals exempt sales beyond the wholesale level, except in four circumstances:

- o diesel fuel sold for use as a fuel in a diesel-powered train;
- o commercial aviation fuel;
- o taxable fuel sold for industrial use other than as a motor fuel; and
- o taxable fuel sold for use by a state or a political subdivision of a state.

These exemptions are not across-the-board; rather, they will have to be obtained on a case-by-case basis by each company.

All other current exemptions from the diesel fuels tax, including those for farmers, fishermen and other off-highway business use, have been eliminated. Instead, non-taxable uses will be taxed at time of purchase and refunds made pursuant to applications filed to document the non-taxable use. Although the regulations implementing this change have not been finalized, the Treasury Department indicates that they expect to use a quarterly refund process for amounts in excess of \$1,000 which is similar to the existing refund process for non-taxable gasoline and diesel fuel uses. All refunds less than \$1,000 per quarter will be handled annually.

The changes that were enacted had the objective of deterring tax-evasion schemes which are estimated to cost the Highway Trust Fund several hundred million dollars in lost revenues annually. However, the repeal of the exemption will place a heavy cash-flow burden on the seafood industry, which has legitimate tax exempt uses.

IMPACT

This law becomes effective April 1. The impact on fishery companies includes:

- o added cost for fuel;
- o additional recordkeeping and paperwork to enable recovery of funds through a yet-to-be established refund procedure; and
- o loss of the time value of the funds paid for fuel tax (which may be substantial as federal officials are swamped in an avalanche of refund requests).

LEGISLATIVE ACTIVITY

Several bills have been introduced. Four would restore the exemption for farmers only. These are:

- o H.R. 3850 sponsored by Congressman Jontz (D-IN)
- o H.R. 3844 sponsored by Congressman Daub (R-NE)
- o H.R. 3881 sponsored by Congresswoman Smith (R-NE)
- o S. 2003 sponsored by Senator Gramm (R-TX)

Two bills would restore exemptions for all off-highway uses including vessel operations. These are:

- o H.R. 3865 sponsored by Congressman Combest (R-TX)
- o H.R. 3866 sponsored by Congressman De la Garza (D-TX)

The key committees which will consider this matter are:

#### SENATE FINANCE COMMITTEE

Lloyd Bentsen, Tex., Chairman	Bob Packwood, Ore., Ranking Minority Member
Spark M. Matsunaga, HI	Robert Dole, Kan.
Daniel P. Moynihan, N.Y.	William V. Roth, Jr. Del.
Max Baucus, Mont.	John C. Danforth, Mo.
David L. Boren, Okla.	John H. Chafee, R.I.
Bill Bradley, N.J.	John Heinz, Pa.
George J. Mitchell, ME	Malcolm Wallop, Wyo.
David Pryor, Ark.	David Durenberger, Minn.
Donald W. Riegle, Jr., Mich.	William L. Armstrong, Colo.
John D. Rockefeller IV, W.Va.	
Thomas A. Daschle, S.D.	

#### HOUSE WAYS AND MEANS COMMITTEE

##### MAJORITY MEMBERS

Dan Rostenkowski, Ill. Chairman	Marty Russo, Ill.
Sam M. Gibbons, Fla.	Donald J. Pease, Ohio
J.J. Pickle, TX	Robert T. Matsui, CA.
Charles B. Rangel, NY	Beryl F. Anthony, Jr. Ark.
Fortney H. (Pete) Stark, CA	Ronnie G. Flipppo, Ala.
Andrew Jacobs, Jr., Ind.	Byron L. Dorgan, N.D.
Harold E. Ford, Tenn.	Barbara B. Kennelly, CT.
Ed Jenkins, Ga.	Brian Donnelly, Mass.
Richard A. Gephardt, Mo.	William J. Coyne, Pa.
Thomas J. Downey, N.Y.	Michael A. Andrews, TX.
Frank J. Guarini, N.J.	Sander M. Levin, Mich.
	Jim Moody, Wis.

##### MINORITY MEMBERS

John J. Duncan, Tenn,  
Ranking Minority Member

Bill Archer, Tex.  
Guy Vander Jagt, Mich  
Philip M. Crane, Il.  
Bill Frenzel, Minn.  
Richard T. Schulze, Pa.  
Willis D. Gradison, Jr. Ohio  
William M. Thomas, Calif.  
Raymond J. McGrath, N.Y.  
Hal Daub, Neb.  
Judd Gregg, N.H.  
Hank Brown, Colo.  
Rod Chandler, Wash.



# PETRO MARINE SERVICES

A HARBOR ENTERPRISES COMPANY

P.O. Box 389 • Seward, Alaska 99664 • (907) 224-3190

February 04, 1988

Senator Frank H. Murkowski  
United States Senate  
709 Hart Building  
Washington, D.C.

Dear Senator Frank:

It has come to my attention that Congress passed a Mid-Distillates Fuel Tax Bill in the chaotic and waning hours of December 22, 1987 as a part of the overall U.S. Tax Reduction Act. A close examination of the provisions of the Act have raised serious concerns and accordingly I wish to bring them to your attention.

The Act states that a diesel fuel tax of \$.151 per gallon is to be levied on "any liquid suitable for use as a fuel in a diesel highway vehicle or a diesel powered train (does not apply to fuel for home heating use)". The key word here is "suitable"--whether the product is used as such or not. The collection of the excise tax on the sale of any taxable fuel by wholesale dealers is made mandatory on all sales. All tax free sales for certain exempt sales purposes are repealed. Wholesalers can buy diesel fuel for resale provided they are registered and have posted bonds as required by the Treasury.

Petro Marine Services is a marine-oriented fuel distributorship with a majority of our customers being fishing industry related. A recent review of our sales volumes reflect that less than one-percent of our total diesel fuel gallons are taxable highway and off-highway use fuel. Fronting this tax to the Treasury will significantly increase the cost of doing business for our customers by adversely affecting their cash flow and, of consequence, we dealers will be affected likewise. End-use consumers will not be able to apply for a refund of these taxes unless the amount of the tax withheld is over \$1,000 in a quarter. Furthermore, consumers must wait until year end and apply the overpayment to their income tax return as stipulated in the Bill. The Treasury is not obligated to pay interest on the refunds; thus, the collected amounts are, in essence, interest-free loans to the government from marine fuel consumers, many of whom are struggling to derive a living from an uncertain and undercapitalized fishing industry.

Anchorage  
(907) 278-7586

Nikiski  
(907) 776-8000

Kodiak  
(907) 486-3421

Dutch Harbor  
(907) 581-1350



Page 2

In addition this tax will have a negative impact on domestic marine fuel suppliers as opposed to foreign bunkerers and processors many of whom import their fuel and sell to U.S. flag vessels on the high-seas and within our Exclusive Economic Zone (EEZ). With the \$.151 per gallon Federal Excise Tax plus the \$.05 per gallon State of Alaska Marine Fuel Tax, it will be economically impossible to compete against foreign flag operators. I am certain this was not the intent of Congress.

One of the provisions in the law states that "the Treasury has been given discretionary authority to exempt certain sales from tax where the purchaser satisfactorily demonstrates to the Treasury that the fuel will be consumed for use deemed non-taxable in nature, that these parties must also register and post bonds as required by the Treasury". Let me assure you bonding requirements will only impose a further financial hardship on fuel distributorships some of whom are already faced with problems securing basic insurance needs. If indeed, the end-user is included in this Clause, we alone have several hundred customers who would be required to register and post bond with the Treasury in order to be deemed tax-exempt. This stipulation will be very cumbersome and difficult for all affected to comply with. The law further reads that the Treasury is expected to exercise their authority on a "case by case" basis. Inasmuch as our taxable highway use diesel fuel customer base is miniscule as compared to our predominate marine base, it seems reasonable to assume that an overwhelming amount of time and effort will be consumed by the Treasury in rendering these assessments. Under the aforementioned circumstances it would seem that a blanket waiver would be a viable alternative for marine oriented fuel distributors such as ourselves.

Without question the Mid-Distillate Fuel Tax Bill in its present form represents ill-conceived legislation. As a company, Petro Marine Services has consistently supported reasonable regulation at all levels of government; however, this particular Bill serves only to finance and broaden Federal bureaucracy at the expense of fuel dealers and end-use consumers. In view of this fact I respectfully urge that immediate consideration be given to amending those provisions in the Bill which are not applicable to highway diesel fuel use.

Sincerely,

  
Dale R. Lindsey, President  
HARBOR ENTERPRISES, INC.

DRL:tc

2. Collection of diesel fuel and certain other motor fuels taxes on sales to retailers

*Present law*

The excise taxes on diesel fuel, special motor fuels, and nongasoline aviation fuel generally are imposed on the sale of the taxable fuel by a retail dealer to the ultimate consumer of the fuel (sec. 4041). Under an exception, retail dealers may elect to have wholesale distributors collect and pay the diesel fuel tax when the fuel is sold to the retailer.

*House bill*

The excise tax on taxable fuels, which are defined as diesel fuel, taxable special fuels, and nongasoline aviation fuels, is to be imposed on sale of the fuels to any taxable fuel retailer.

Taxable special fuels include special motor fuels (other than gasoline or diesel fuel) that are sold for use as a fuel in a motor vehicle or motorboat. Nongasoline aviation fuels means any liquid on which tax would be imposed if sold for use in an aircraft in non-commercial aviation.

Collection of the excise tax on the sale of any taxable fuel by wholesale dealers is made mandatory for all sales. The provisions of present law permitting tax-free sales for certain exempt purposes are repealed.

Any taxable fuel that is held on January 1, 1988, by a dealer for sale is subject to a floor stocks tax at the rate applicable under this section to that fuel.

The provision is effective on January 1, 1988.

*Senate amendment*

The Senate amendment generally is the same as the House bill, with the following differences.

The Treasury Department is authorized to prescribe regulations for purposes of making refunds or allowing credits of the non-gasoline fuels excise taxes. In addition, Treasury is authorized to require information reporting and registration from such persons in the distribution chain of these fuels as is deemed necessary to prevent evasion of the tax.

The Senate amendment also requires that amounts equivalent to revenues raised by the floor stocks taxes be transferred to the Highway Trust Fund or the Leaking Underground Storage Tank (LUST) Trust Fund.

The provision is effective on January 1, 1988.

*Conference agreement*

The conference agreement generally follows the House bill and the Senate amendment, but includes several modifications. First, the tax on special motor fuels continues to be imposed at the retail level. In the case of the taxes on diesel fuel and nongasoline aviation fuels, tax technically is imposed on the sale (or earlier use) of a taxable fuel by the producer thereof. The term producer is defined, however, to include wholesale distributors and other intermediate persons in the chain of distribution of the taxable fuel. All persons who are producers of a taxable fuel must register with the

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Treasury Department and satisfy such bonding requirements as Treasury may prescribe. Therefore, a wholesale distributor may buy fuels without payment of tax only upon satisfaction of these requirements.

In general, like the House bill and Senate amendment, all provisions permitting exempt sales beyond the wholesale level are repealed. Treasury is, however, given discretionary authority to exempt from tax certain sales where the purchaser demonstrates to the satisfaction of Treasury that the fuel will be used in a non-taxable use and also registers and posts such bond as Treasury may require. This authority is to be exercised on a case-by-case basis. Sales that may be exempted include (1) diesel fuel sold for use as a fuel in a diesel-powered train, (2) aviation fuel sold for use as a fuel in an aircraft in commercial aviation, (3) taxable fuels sold for industrial use other than as a motor fuel, and (4) taxable fuel sold for exclusive use of any State, a political subdivision of a State, or the District of Columbia. As under the House bill and the Senate amendment, sales of fuel that Treasury determines is destined for use as heating oil may be made without payment of tax. All other exemptions from these taxes must be realized through refund procedures following purchase of the fuels tax-paid.

The conference agreement grants Treasury broad authority to ensure compliance generally with the provisions of the agreement. Specifically, Treasury may, in its discretion, require information reporting by and registration of any person in the distribution chain of any taxable fuel (including, e.g., any distributor of fuel destined for use as heating oil).

These provisions of the conference agreement are effective on and after April 1, 1988, with a floor stocks tax being imposed, as was provided under the House bill and the Senate amendment on all persons holding non-tax-paid fuels on April 1, 1988.

#### 8. Extension of termination date for coal excise tax rate

##### *Present law*

A manufacturer's excise tax is imposed on the sale or use of domestically mined coal by the producer (sec. 4121). Effective April 1, 1986, the tax rate was increased (by 10 percent) to \$1.10 per ton of coal from underground mines, and 85 cents per ton of coal from surface mines, but not to exceed 4.4 percent of the sales price.

Under present law, the tax rate is scheduled to revert to the pre-1982 rate of 50 cents per ton on underground coal and 25 cents per ton on surface coal (but not to exceed two percent of price) on the earlier of January 1, 1996 or the first January 1 as of which there is (1) no balance of repayable advances from the general fund to

\* States and local governmental units eligible to apply to the Treasury for approval to buy fuel without payment of tax generally include those governmental units that are permitted to buy fuel under present law (sec. 4111(a)). The conferees are aware that repeal of excise tax on sales of these fuels to States and local governments may, in certain cases, result in a temporary additional cost on certain of these entities, but determined that general support about compliance with these taxes outweigh that possibility. The discretionary exception included in the agreement reconciles these compliance concerns with any potential burden on States and local governments. The conferees intend that in determining which governmental units may purchase taxable fuels without payment of tax under the agreement, the Treasury Department is to attempt to minimize any such costs to the extent consistent with the increased compliance objectives of the conference agreement.

THE PRECEDING DOCUMENT(S) MAY NOT FILM  
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I N F O R M A T I O N A L

P A C K E T

HCS SB 190 (RESOURCES)

ESTABLISHING THE POINT BRIDGET STATE PARK

PROVIDED FOR THE HOUSE RESOURCES COMMITTEE

BY SENATOR JIM DUNCAN

MARCH 3, 1988

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# Alaska State Legislature

SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811

(907) 465-4766

COMMITTEES:  
FINANCE  
RESOURCES  
BUDGET AND AUDIT

March 3, 1988

TO: HOUSE RESOURCES COMMITTEE

FROM: SENATOR JIM DUNCAN

SUBJECT: HCS SENATE BILL 190 (RESOURCES)  
POINT BRIDGET STATE PARK

At the direction of the House Resources Committee at our last hearing on Senate Bill 190, the Department of Natural Resources, Division of Parks solicited comment from all private landowners within the proposed Park boundaries. As a result of that solicitation, we have received letters from all four landowners.

Their comments, which are a part of your packet, were as follows:

Southeast Land and Development Company: They support formation of a State park provided right of way access to their property is guaranteed. To accommodate this concern, an additional parcel of State land which abuts Glacier Highway was added to the proposed Park.

Estate of Henry Anderson: A response was received from the Tlingit and Haida Central Council on behalf of the probable heirs to Henry Anderson's estate which states that "as long as the legislation recognizes the rights to this property by the heirs...this agency has no objection to the creation of the Park." Section 1(b) of the purpose section explicitly expresses the Legislature's respect for the rights of the private land owners in the area. Subsequent to receipt of this letter I was contacted by the actual heir to the estate, Julie Williams, who provided the attached letter of non-objection.

Goldbelt: Goldbelt was concerned about the inclusion of their property within the boundaries of the Park. In response to their concern and that of Echo Ranch Bible Camp on this matter, the CS before you was amended to redefine the boundaries to include only State-owned land within the Park. The Henry Anderson estate mentioned above is in the middle of the Park and therefore still within the boundaries, but is as before, technically excluded.

HOUSE RESOURCES COMMITTEE

March 3, 1988

Page 2

Goldbelt's other concern about access to the private land was similar to that of Southeast Land & Development Company. Again, this concern was addressed by inclusion of the parcel abutting Glacier Highway.

Echo Ranch Bible Camp: The Camp had a number of concerns, most of which have been addressed. I have worked with the Camp's Board and the Division of Parks during the past weeks to insure the creation of a state park in that area has the least impact possible to the Bible Camp's program. I know how important the Camp is to the youth of Southeast Alaska and genuinely feel that park status for the state lands at Point Eridget is compatible with and will enhance the Camp's programs.

As a result of meetings with the Camp Director and Members of their Board, I have proposed the following specific items in the CS to Senate Bill 190 to address Echo Ranch Bible Camp's concerns:

1. Purpose language to formalize the Legislature's respect for the rights of the private land owners in the Point Bridget area. In paragraph b of Section 1, the language clearly states that the Legislature recognizes the value of the services provided by the private landowners in the area and does not in any way intend to impair the continuance of those services. The language about riparian rights in the last sentence will allow Echo Ranch or other land owners to claim accreted land.
2. The original boundaries of the Park included five parcels of private land, although the language of the original bill only included the State-owned land within those boundaries. The Resources Committee Substitute you have before you specifically excludes all private parcels from the boundaries of the Park. This is on page 2, beginning on line 3.
3. The Bible Camp has indicated to me the possible desire to trade part of their land for an adjacent piece of proposed park land. The language in the CS, page 1, line 26 would facilitate such an exchange, but only if it is initiated by the private land owner.

HOUSE RESOURCES COMMITTEE

March 3, 1988

Page 3

4. The Bible Camp and other private landowners have indicated their desire for an access road into the area. As mentioned above, a State-owned parcel was added on the south end of the Park next to Glacier Highway. See the map in your packet and page 2, line 18 of the CS.
5. The Bible Camp has expressed concern about whether park status for the area will affect the Camp's ability to continue grazing their horses on the proposed park's meadowland. I understand their concern on this issue and have worked with the Division of Parks to draft the attached intent language for the committee's consideration.

Other items mentioned by the Echo Ranch Bible Camp but not specifically included in the bill are:

1. Another point brought to my attention by the Camp Board was concern that the Department of Natural Resources would block future construction of a small boat float on the tidelands in front of the Camp. The Director of State Parks has indicated to me that this type of facility would be considered compatible with a State Park and would be acceptable to the Department of Natural Resources.
2. The Bible Camp has asked that the beach and tidelands in front of the Camp be removed from the park boundaries. I approached the Juneau Parks Advisory Board with this proposal and found they firmly support retention of the beach and tidelands in the park boundaries. The Division of Parks will design the future park facilities to draw picnickers and other visitors away from the private lands in the area.

I feel the above points show my commitment to address the concerns of the private landowners in the Point Bridget area. With this in mind, I hope we can move forward to establish Juneau's first State Park so all residents of Juneau have the opportunity to enjoy the beautiful country at Bridget Point.