

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7164 HOUSE RESOURCES

CERTIFICATE OF INSURANCE

Name: _____ [name of each covered location]

Address: _____ [address of each covered location]

Policy Number: _____

Endorsement (if applicable): _____

Period of Coverage: _____ [current policy period]

Name of [Insurer or Risk Retention Group]: _____

Address of [Insurer or Risk Retention Group]: _____

Name of Insured: _____

Address of Insured: _____

Certification:

1. [Name of Insurer or Risk Retention Group], [the "Insurer" or "Group"], as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 CFR 280.22, or the corresponding state requirement, and the name and address of the facility.]

for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs. This coverage is provided under [policy number]. The effective date of said policy is [date]

2. The ["Insurer" or "Group"] further certifies the following with respect to the insurance described in Paragraph 1:

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this certificate applies.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 40 CFR 280.95-280.102.

c. Whenever requested by [a Director of an implementing agency], the ["Insurer" or "Group"] agrees to furnish to [the Director] a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"] will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured.

[Insert for claims-made policies:

e. The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the ["Insurer" or "Group"] within six months of the effective date of the cancellation or other termination of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in 40 CFR 280.97(b)(2) and that the ["Insurer" or "Group"] is [licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines Insurer in one or more states".]

[Signature of authorized representative of Insurer]

[Type name]

[Title], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

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Companion booklet

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South Portland, ME 04106
Video and booklet
\$5.00 prepaid

"What Do We Have Here?: A Guide to Site Assessment at Closure"

Order from:

New England Interstate Water
Pollution Control Commission
Attn: VIDEOS
85 Merrimac Street
Boston, MA 02114
\$40.00 prepaid

Companion booklet

\$5.00 prepaid

Brochures...

Technical Requirements

"Musts for USTs" -- A Summary of the Regulations for Underground Storage Tank Systems
Stock No. 055-000-00294-1
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Financial Responsibility

"Dollars and Sense" -- A Summary of the Financial Responsibility Regulations for Underground Storage Tank Systems
Stock No. 055-000-00293-2
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Leak Detection

"Leak Lookout" -- Using External Leak Detectors to Prevent Petroleum Contamination from Underground Storage Tanks

Emergency Response

"Oh No!" -- Petroleum Leaks and Spills: What Do You Do?

Order both from:

U.S. Environmental Protection Agency
Office of Underground Storage Tanks
P.O. Box 6044
Rockville, MD 20850
Free

Handbooks...

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"Cleanup of Releases from Petroleum USTs: Selected Technologies"
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\$7.50

"Petroleum Tank Releases Under Control: A Compendium of Current Practices for State UST Inspectors"
Stock No. 055-000-00295-9
\$8.50

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\$3.25

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\$4.25

Order from:

Superintendent of Documents
U.S. Government Printing Office
Washington, DC 20402
(202) 783-3238

FINANCIAL TEST OPTIONS

Test I

- a. Your firm must have a tangible net worth of at least \$10 million; and
- b. Your firm must have a tangible net worth of at least 10 times the amount of aggregate coverage that you are required to demonstrate plus any other liability coverage for which your firm is using the test to demonstrate financial responsibility to EPA; and
- c. Your firm must file the firm's annual financial statements with the Securities and Exchange Commission (SEC), or annually report the firm's tangible net worth to Dun and Bradstreet and receive a rating of 4A or 5A. Utilities may file financial statements with the Energy Information Administration, or the Rural Electrification Administration instead of the SEC; and
- d. Your firm must have audited financial statements that do not include an adverse auditor's opinion or disclaimer of opinion.

Test II

- a. Your firm must have a tangible net worth of at least \$10 million; and
- b. Your firm must have a tangible net worth of at least 6 times the amount of aggregate coverage that you are required to demonstrate; and
- c. Have U.S. assets that are at least 90 percent of total assets or at least 6 times the required aggregate amount; and
- d. Have net working capital at least 6 times the required aggregate amount, or a bond rating of AAA, AA, A, or BBB from Standard and Poor's, or Aaa, Aa, or Baa from Moody's; and
- e. Your firm must have audited financial statements that do not include an adverse auditor's opinion or disclaimer of opinion.

HB

267

REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE
DISTRICT ELEVEN
SEAT A

3111 "C" STREET, SUITE 450
ANCHORAGE, ALASKA 99503
(907) 561-7629 (FAX) 562-4376

ALASKA LANDINGS • BERTZ • BIRCHWOOD • CUSTER CREEK • HEATHER MEADOWS • LINCOLN PARK • MIDTOWN • NORTHSTAR
NORTHWOOD • ROMBO • ROOSEVELT PARK • SPENARD • THOMPSON • TURNAGAN • WINDMERE • WOODLAND PARK



CHAIRMAN
JUDICIARY COMMITTEE
VICE CHAIRMAN
REGULATION REVIEW COMMITTEE
MEMBER
RULES COMMITTEE
LABOR AND COMMERCE COMMITTEE

SPONSOR SUMMARY REPRESENTATIVE DAVE DONLEY HOUSE BILL 267

HB 67 provides funding for emergency equipment that is greatly needed by the Anchorage Fire Department. Currently, the Anchorage Fire Department is unable to respond to either a crisis in the waters of Cook Inlet or a hazardous materials disaster. As the Preservative Paint Company fire in Anchorage showed a couple of weeks ago, the fire department is woefully under equipped and trained to deal with unusual emergencies.

The bill appropriates to the Municipality of Anchorage, the Anchorage International Airport, and the Alaska Air National Guard the funds necessary to purchase rigid hull boats, trailers for the boats and training in their use. The boats would be used for cold-water rescue in case of an airline accident in Cook Inlet.

The bill also appropriates funding to the Municipality of Anchorage for purchasing a decontamination trailer, hazardous materials uniforms and training in the clean-up of hazardous waste.

These items would be available to all of Cook Inlet, from Mat-Su to the Kenai Peninsula and are easily mobile.

HB 67 is supported by the administration of the fire department as well as rank and file firefighters.

JUNEAU OFFICE

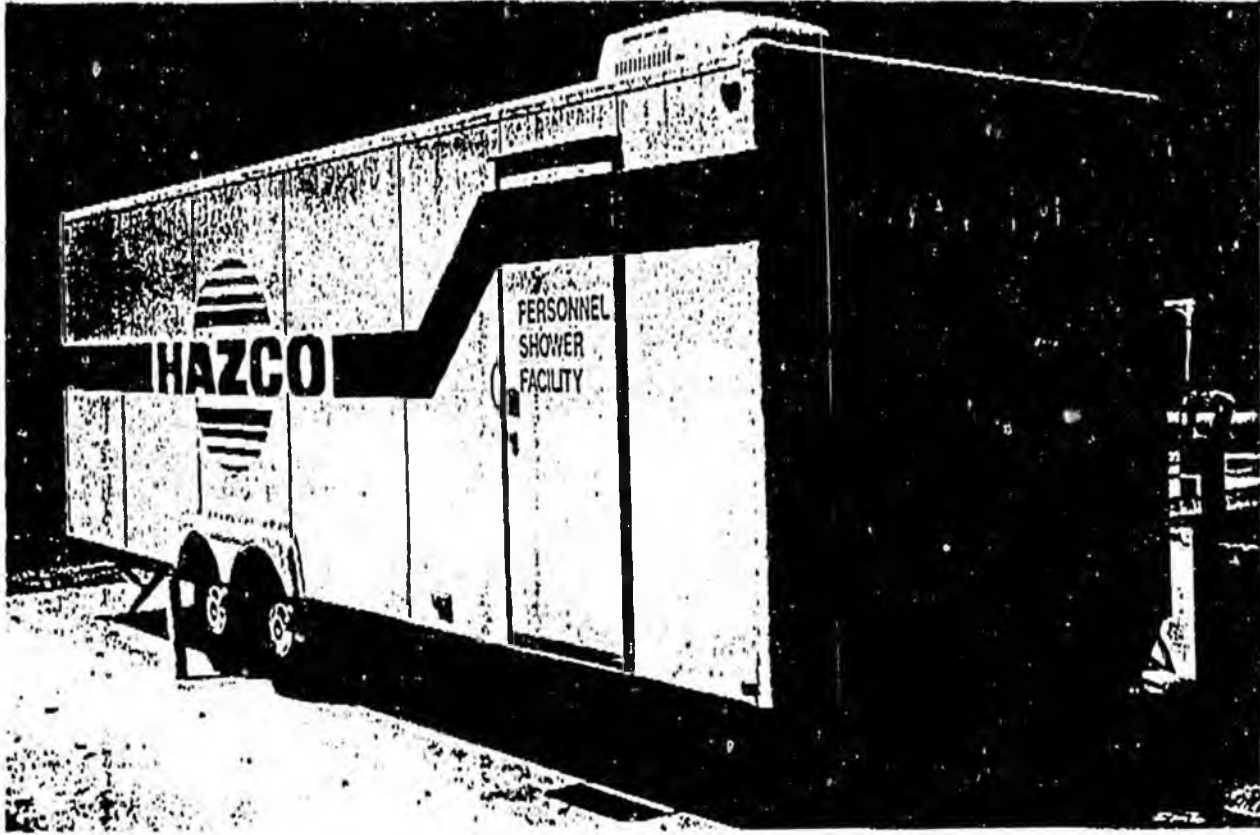
(During Legislative Session January through May)

P.O. BOX 57 JUNEAU ALASKA 99801 (907) 465-3803 (FAX) 463-5661

HAZCO



COMMANDO MOBILE DECONTAMINATION FACILITY

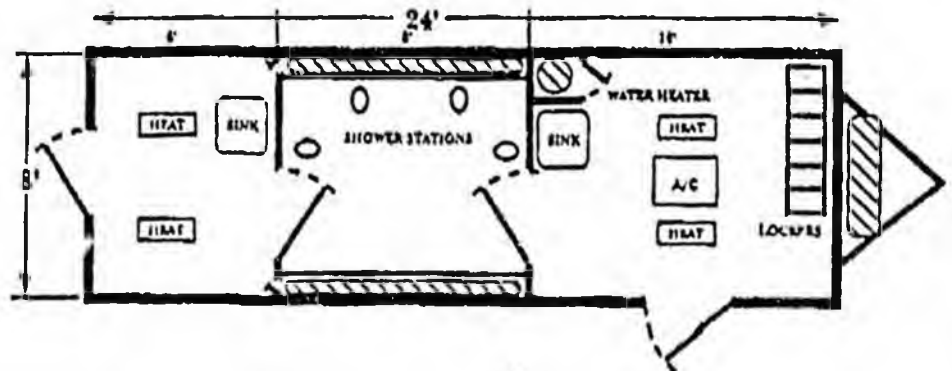


COMMANDO Mobile Decon Trailers have the rugged features you need on the hazardous waste site. It provides safety in use, low maintenance and durability. The EPA recommended, three-chamber design includes a large shower compartment.

Wash-downs are easy in the HAZCO COMMANDO line of mobile facilities. All T-locked joints are silicone sealed. Floors are non-skid, Armstrong linoleum. Walls and ceilings are smooth fiberglass. The resulting structure is a liquid-proof interior box for easy decon and clean-up. These special trailers withstand abrasion, alkali and acid exposure in addition to inclement weather. A new, smooth, exterior aluminum skin is more rugged and easier to clean than corrugated designs. It also eliminates static drag and vibration in-transit which reduces wear and tear on trailer structure. A windowless design offers proven security and environmental safety. The standard HAZCO COMMANDO also

features: four-corner stabilizer jacks to speed setups, fan-forced and infra-red heat, air conditioning, full insulation, contaminated water storage, hot water systems, shelving and storage areas. Electrical outlets are GFI-protected and lighting is UL listed for wet locations.

Custom designs and specifications may be accommodated. COMMANDO DECON UNITS may be shipped anywhere in the USA within 45 days of a design approval. Standard floor plan models can be shipped sooner.



AVON SR7.4M

DIESEL SEARIDER RIGID HULL WORKBOAT

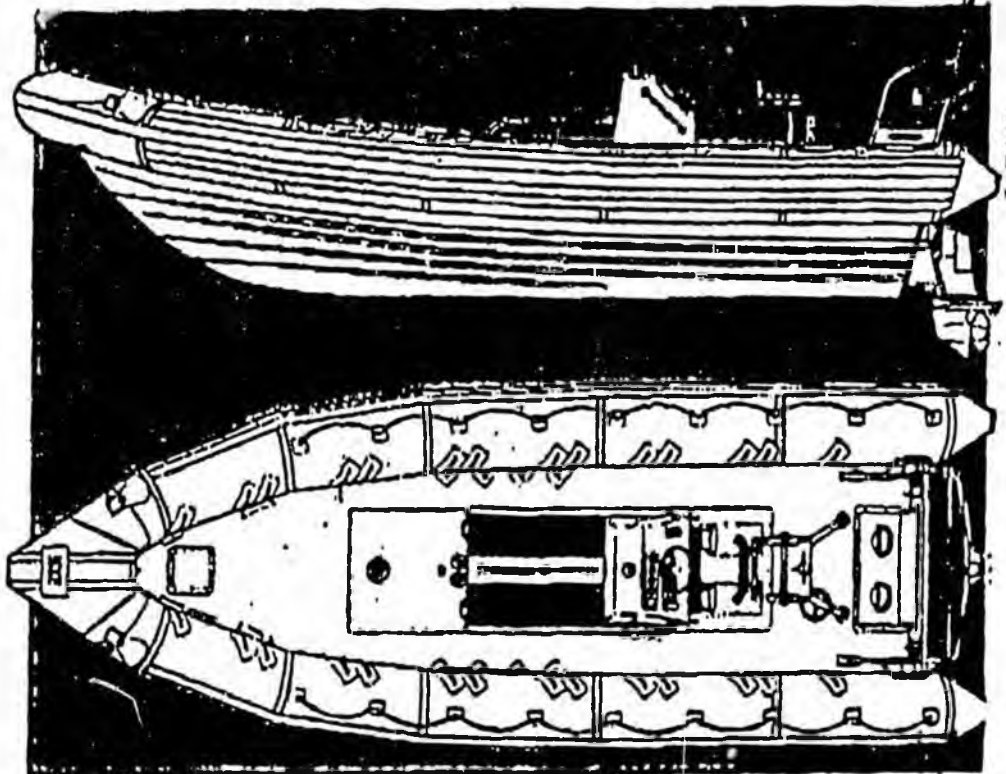
- all weather
- fast attack
- fishery protection
- high speed rescue
- law enforcement
- offshore patrol
- offshore oil safety
- coastguard

Recent years have seen a substantial growth in the use of rigid-hulled inflatables pioneered and commercially developed by Avon, whose Searider range can handle any inshore or offshore task.

Newest in the Avon range are diesel powered craft equally suitable for on-ship or shore-based operation. Most power and drive units can be installed to meet your particular requirements.

Their manoeuvrability and performance are very hard to equal. Their inflatable buoyancy and deep V seagoing hull easily enable Seariders to operate in the most difficult conditions.

Searider craft are in service with the Royal Navy and many others as well as the U.K. and U.S. Coast Guard. These high speed craft have also been approved by the British Department of Trade and Industry as safety boats on stand-by vessels in the North Sea oil fields



Specially equipped craft are produced for law enforcement, fire fighting and fishery protection with self-righting equipment and

Immersion proofed engines and electrical systems.

An 8-metre version with inboard diesel power is also available.

SPECIFICATION

MODEL	LENGTH		BEAM		TUBE DIAMETER		APPROXIMATE WEIGHT				
	OVERALL	INSIDE	OVERALL	INSIDE	BOW	STERN	BOAT	FLOORBOARDS	TOTAL		
SR7.4M INBOARD DIESEL	24' 6" 7.47 m	19' 3" 5.86 m	8' 7" 2.62 m	4' 11" 1.49 m	20" 51 cm	22" 56 cm	4400 lbs 2000 kg	N/A	4400 lbs 2000 kg		
BOAT	STOWED DIMENSIONS		DISPLACEMENT		CAPACITY		H.P.		NUMBER OF SECTIONS	APPROXIMATE PERFORMANCE (KNOTS)	APPROXIMATE ASSEMBLY
	FLOORBOARDS	DRY	SWAMPED	WEIGHT	PERSONS	MAX	USEFUL				
N/A	N/A	13800 lbs 6270 kg	7400 lbs 3360 kg	3300 lbs 1500 kg	20	165	N/A	7	30	N/A	

... .. enable to improve the specification, design and

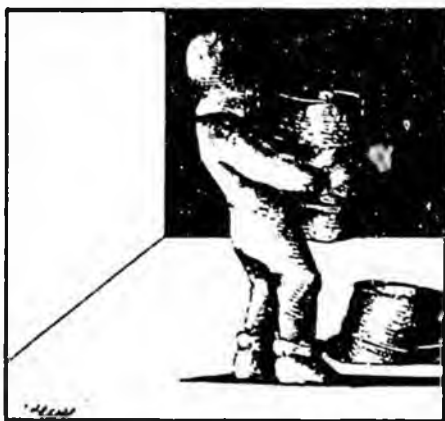
Arch. Daily 4-9-91

Not prepared

Toxic emergency plan needs work

Last week's fire at Preservative Paint Co. highlighted a hole in the city's preparation for toxic emergencies. The city's response plans do not meet the standards required by federal law.

City officials have said the failing is essentially procedural. The city has planned for toxic emergencies, they say; it just hasn't followed all the federally required steps.



What that says is the city may have a plan, but it isn't good enough. The federal law requires the city to write a formal plan after consulting with a broad range of

community expertise. The city has not set up the federally required committee, which includes representatives from the police, firefighters, medical care providers, and other segments of the community.

The resulting plan, which is a component of the city's overall hazard plan, falls short of the federal ideal. Notably lacking is planning for evacuations should they become necessary. Ideally, the city's hazardous-materials information would also be computerized for instant use in emergencies. And finally, the plan is supposed to stimulate community-wide thinking about ways to reduce toxic risks.

This time, city authorities were able to handle the toxic emergency without widespread damage or chaos. If the city doesn't set up its planning committee and get to work, we may not be so lucky next time.

FORUM

Firefighters need right tools to make right moves

By JOSEPH ALBRECHT

Not long ago, Anchorage was the scene of two major hazardous materials incidents, events long predicted by city firefighters.

The first and largest occurred as the result of a fire in a paint warehouse. The second on the Seward Highway in the back of a truck, was caused by improper loading. Although the circumstances vary in both cases, firefighters point to the same conclusion. Chickens finally come home to roost.

Every day, 500,000 shipments of hazardous materials move across America, with most passing safely and anonymously through our lives. Almost all of these substances perform useful services in upholding the standard of living we all enjoy. However, occasionally the stopper comes out of the bottle and the genie escapes.

What happens next is in the hands of the firefighters, and these hands must be holding the right tools to do the job.

For years, the Anchorage firefighters have been trying to acquire these tools through municipal channels, only to encounter the commissar-like "Nyet" of Mayor

Tom Fink. By turns, Fink has claimed to be either unaware of the need or under the impression that things had been taken care of.

In fact, negotiations with Local 1264 on the need for a hazardous-materials team began in October of 1989. Although most nearby large cities — including Seattle, Portland and Tacoma — have teams, Anchorage doesn't. The municipality's excuse is, as usual, "you guys make too much money."

After these negotiations broke down over minimum staffing needs, team size and compensation, Local 1264 hired its own lobbyist to pursue these and other public safety issues in Juneau. Good lobbyists don't come cheap, but neither do good public-safety programs.

It is this last point I want to stress. Providing excellent emergency services should be the most inviolate priority of local government. But since the advent of Tom Fink, many people have forgotten this. Using employee salary and benefit figures to incite jealousy and suspicion, Fink has distracted public attention away from the persistent dismantling of city services, including the emergency di-



This time, nobody was killed, but the firefighters all know that one fine day, someone will be if this community continues to countenance the substitution of vindictive political rhetoric for vital and irreducible public-safety needs.

visions.

I could ask for no stronger proof of this decline than that found in these two hazardous-material incidents. Firefighters were confronted with the most toxic substances during mop-up of the paint store fire, called "overhaul" in firefighter parlance. This phase of the job is where new equipment is so

necessary.

Without proper protection, firefighters were required to work in a noxious soup of chemicals, the initial analysis of which filled three pages. Lacking any sort of decontamination facilities, they carried out this task back at the fire station — a cardinal sin — and so compromised the building where the greatest number of firefighters live and work, and where hundreds of schoolchildren come to view the bright lights and shiny brass every year.

The second incident was the spill of sulfuric acid south of town. The chemical shipper was quoted as saying that the AFD was not needed and did nothing. Well, I was there, and feel that shifting leaking drums of acid through the blackened residue, while eyeing xylene and chlorine gas the entire time, certainly counts as a contribution in my book.

The news that replacement gear will now be paid for by the owners of the properties involved has met with predictable grumbling on their parts. It seems that the hosannas of praise for "user fees" are reserved by the business community for parks, libraries and bike

trails, not public safety. If the expense of replacing this protective clothing seems high, just imagine the cost to the city if federal agencies step in.

Rep. Dave Donley has introduced legislation that should provide the equipment needed to deal with future Haz-Mat episodes, and this is a welcome addition to the firefighters' arsenal. Unfortunately, this will only solve a portion of the larger problem, which will be much more difficult to come to grips with, as it involves developing an entirely new attitude toward public safety.

The hazardous-materials team, the Government Hill fire station, the South Anchorage Ladder Truck, and the Sand Lake and Muldoon tankers comprise a list of infamy and a litany for disaster.

This time nobody was killed, but the firefighters all know that one fine day, someone will be if this community continues to countenance the substitution of vindictive political rhetoric for vital and irreducible public-safety needs.

□ Joseph W. Albrecht is an Anchorage firefighter.



ANCHORAGE FIRE FIGHTERS UNION

LOCAL 1264
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS
AFL-CIO

1200 E. 76TH #1227

ANCHORAGE, ALASKA 99518



Honorable Cliff Davidson
Chairman Resources Committee
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

April 22, 1991

Dear Chairman Davidson and Committee Members,

I am writing you today on behalf of Local 1264 International Association of Fire Fighters. Our represented membership consists of not only professional fire fighters, but also paramedics, dispatchers, fire inspectors, fire apparatus mechanics, and essential support clerical staff, 256 personnel.

Currently before your committee is H.B. #267. This bill includes funding for continued hazardous materials training, and specialized equipment items as well as funding for essential water rescue equipment. We respectfully ask for your consideration regarding this important bill.

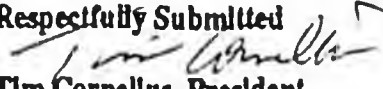
Public protection for the citizens and visitors of Anchorage provided by this bill is the minimum base level of funding needed to protect emergency service personnel and provide for the safety of the Anchorage populace, in these two important areas. Anchorage fire fighters must have the tools necessary to properly protect the public in the event of hazardous materials incident, or a inlet rescue situation. Currently the Fire fighters are in negotiations with the municipal administration regarding a commitment to the formation of a dedicated hazardous material team.

Our community has a significant hazardous materials problem as do many metropolitan cities in the nation. This can only be addressed through a basic commitment and the necessary funding. The Anchorage Fire Fighters have volunteered for and received training in this area for several years now, but up until recently we have lacked the necessary support from our leaders to form an effective team and acquire necessary equipment.

Your support now will be the necessary catalyst to address the Haz. Mat and Inlet/water rescue situation, again both badly needed and long overdue neglected problems. The Anchorage Fire Fighters believe it is important for us to become involved in the legislative process and have spent a great deal of time and energy in our efforts to protect the public we serve. We have seen all too often the failed mis-directed attempts of others regarding public safety funding for the citizens of Anchorage and so have rededicated ourselves to this process, however without your help our efforts will have been in vain.

Thank you in advance for your support! If you need additional testimony or specific details regarding the operational necessity of House Bill #267, Please contact Local 1264 IAFF through our home office referenced on letter head or ph# 349-1264.

Respectfully Submitted


Tim Cornelius, President
Local 1264 IAFF

HB

275

STATE OF ALASKA
House of Representatives
District 27

Representative Cliff Davidson
Chairman
House Resources Committee

Box V, Juneau, AK 99811
(907) 465-2487
Box 746, Kodiak, AK 99615
(907) 486-8250

TO: House Resources Committee Members

FROM: Representative Cliff Davidson, Chair
House Resources Committee

DATE: 2 May 1991

SUBJECT: House Bill 275 - Municipal Reimbursement for Cleanup of
Oil Spill and Other Hazardous Substances Discharges

Although most spills are not as dramatic as that of the Exxon Valdez, our municipal governments are increasingly being required to respond to accidents involving oil and other hazardous substances. Municipal governments are willing and able to respond to these environmental disasters, but frequently lack the financial resources to absorb the increased costs.

Under Alaska law, responsible spillers ultimately pays the costs associated with oil and hazardous substance discharges. Until they do, those costs are borne by local (as well as the state) governments. HB 275 will allow municipal governments access to the Oil and Hazardous Substance Response Release Fund (470 Fund) to help offset the immediate and near-term increased costs of spill response.

Legislation similar to House Bill 275 was introduced in the 16th Legislature but died before a final vote could be taken on the last night. The current bill is very similar to that legislation.

This legislation was originally proposed by the communities that were impacted by the spill of the Exxon Valdez, but I believe that all municipalities will benefit from this legislation.

House Bill 275 will give municipalities the statutory tools and financial resources to respond rapidly and effectively to increased social costs associated with discharges of oil and other hazardous substances. This legislation will benefit the health and welfare of Alaskan citizens as well as the environment.

I thank you for your favorable consideration.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E-36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

May 8, 1991

JOINT DEPARTMENTAL POSITION PAPER
DEPARTMENTS OF
COMMUNITY AND REGIONAL AFFAIRS
AND
ENVIRONMENTAL CONSERVATION

RE: Committee Substitute for House Bill 275

SPONSORS: Representatives Davidson and Kubina

The Departments of Community and Regional Affairs and Environmental Conservation support the passage of CS HB 275. We have worked together and with other interested parties to resolve any concerns we might have had with prior versions of this legislation. We are now comfortable the bill will accomplish its intent without further modification.

Ed. 13274-2

Edgar Blatchford, Commissioner
Community & Regional Affairs

John M. Sandor
John M. Sandor, Commissioner
Environmental Conservation

STATE OF ALASKA
House of Representatives
District 27

Representative Cliff Davidson
Chairman
House Resources Committee



Box V, Juneau, AK 99811
(907) 465-2487
Box 746, Kodiak, AK 99615
(907) 486-8250

TO: Representative Jerry Mackie, Chair
House Community and Regional Affairs Committee

FROM: Representative Cliff Davidson

DATE: 17 April 1991

SUBJECT: Scheduling HB 275 - Municipal Assistance for Oil Spills

House Bill 275 was recently referred to your committee. I would like to request a hearing at your earliest convenience.

After the Exxon Valdez oil spill, the affected communities faced massive social and economic problems with limited financial resources. Legislation was introduced in the 16th Alaska Legislature to allow access to emergency funds through the "Oil Spill Response Fund," (the 470 Fund). That bill failed to advance to 3rd reading on the last night of the session in 1990.

House Bill 275 is very similar to last year's legislation. Again, I would appreciate an early hearing.

STATE OF ALASKA
House of Representatives
District 27

Representative Cliff Davidson
Chairman
House Resources Committee



Box V, Juneau, AK 99811
(907) 465-2487
Box 746, Kodiak, AK 99615
(907) 486-8250

TO: Representative Jerry Mackie, Chair
House Community & Regional Affairs Committee

FROM: Representative Cliff Davidson

DATE: 24 April 1991

SUBJECT: House Bill 275 - Municipal Reimbursement for Cleanup of
Oil Spill and Other Hazardous Substances Discharges

Although most spills are not as dramatic as that of the Exxon Valdez, our municipal governments are increasingly being required to respond to accidents involving oil and other hazardous substances. Municipal governments are willing and able to respond to these environmental disasters, but frequently lack the financial resources to absorb the increased costs.

Under Alaska law, the spiller ultimately pays the costs associated with oil and hazardous substance discharges. Until they do, those costs are borne by local (as well as the state) governments. HB 275 will allow municipal governments access to the Oil and Hazardous Substance Response Release Fund (470 Fund) to help offset the immediate and increased costs of spill response.

Legislation similar to House Bill 275 was introduced in the 16th Legislature but died before a final vote could be taken. The current bill is very similar to that legislation.

This legislation was originally proposed by the communities that were impacted by the spill of the Exxon Valdez, but I believe that all municipalities will benefit from this legislation.

House Bill 275 will give municipalities the statutory tools and financial resources to respond rapidly and effectively to discharges of oil and other hazardous substances. This legislation will benefit the health and welfare of Alaskan citizens as well as the environment.

I thank you for your favorable consideration.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 275

Revision Date: _____ Department Affected: DEC
 Title: Recovery of damages... state BRU: Environmental Quality
assistance..for prevention & abatement of environmental degradation
 Sponsor: Representative Davidson Component: EQ Projects
 Requestor: _____

COMPONENT SERIAL NO.

1	1	0	1	1	6
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: NONE

ANALYSIS: (Attach a separate page if necessary.)
 Under normal operating situations, DEC should need no additional resources to implement the legislation.
 However, should a significant oil spill occur, approximately 2 additional positions may be necessary.

Prepared by: Janice Adair
 Division: Commissioner's Office

Phone: 465-2600
 Date: 4/15/91

Approved by Commissioner: *David Becher*
 Agency: Department of Environmental Conservation

Date: 4/16/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907) 586-1325, Fax (907) 463-5480

In Support of HB 275

The Alaska Municipal League seeks passage of legislation to establish a program to reimburse municipalities for cleanup of oil spills and discharges of other hazardous substances.

The *Exxon Valdez* oil spill, discharges of chemicals from railroad cars, trucks, and cruise ships, and a variety of other recent incidents involving the release of hazardous substances have emphasized the need for a quick response to cut down on the risk of extensive environmental damage. Municipalities near the release site often have the best chance to respond quickly and thus minimize the spread of the spill, the environmental damage done by it, and the ultimate cost to the state. However, local governments usually are not responsible or liable for such cleanups, nor do they have the budgets or resources to pay for them.

During the 1990 session, legislators considered and nearly passed SB 359, which would have given municipalities authority to undertake cleanups of hazardous substance spills within and near their jurisdictions and established a fund to reimburse them for the cost of such cleanups. The need for legislation that would guarantee full reimbursement for costs of municipal responses to oil and other hazardous materials spills and to authorize the state to advance money to a municipality to carry out an emergency first response has not lessened, and the Alaska Municipal League seeks passage of such a bill during 1991.

A number of changes in the statutes relating to oil spills and other hazardous substance discharges and to municipal powers will be required to reach the League's objective. These changes would:

- extend the authority of municipalities to exercise containment and cleanup of spilled oil and other hazardous substances if the spill occurs outside municipal boundaries. Unified, home rule, and first class boroughs already have such power, but all municipalities need it.
- establish a fund that could be readily accessible by municipalities and villages in the event of a hazardous spill. Grants could be made to meet extraordinary expenditures that are beyond the reasonable capability of the municipality or village to meet given their current revenue sources.

HPB

276

FISCAL NOTE

BILL NO. HB276

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____
Title: Appropriation for the Fisheries
Tax Refund Program
Sponsor: Rep. Davidson and Kubina
Requestor: _____

Department Affected: Department of Revenue
BRU: Revenue Operations
Component: Income and Excise Audit

COMPONENT SERIAL NO. | 1 | 1 | 3 |

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	(4500.0)	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	(4500.0)	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	(4500.0)	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year impact: None

ANALYSIS: Attach a separate page for analysis.

SEE ATTACHED

Prepared By: Carl Meyer *Carl Meyer* Phone: (907) 465-2320
Division: Income and Excise Audit Division Date: 4/19/91

Approved by Commissioner: Lee E. Fisher *Lee E. Fisher*
Agency: Department of Revenue Date: 4-19-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, MB, & Impacted Agency(ies).

April 19, 1991

HB 276
FISCAL NOTE ANALYSIS
DEPARTMENT OF REVENUE

HB 276 appropriates \$4,500,000 to the Department of Revenue to be allocated and paid to municipalities that suffered, as a result of the Exxon Valdez oil spill, reductions in the amount of fiscal year 1990 revenue sharing under the Fisheries Business Tax provisions (specifically AS 43.75.130) from what the municipalities would otherwise have received absent the spill. The bill would require the municipalities to enter into agreements with the Department to reimburse the state up to the amount of the allocation for any subsequent recovery from another person for lost fish tax revenues.

The major concern the Department has with this legislation is that it does not provide any mechanism to determine which municipalities suffered reductions in revenue sharing as a result of the spill nor to determine the extent of the reductions. Presumably, we might expect that such a factual determination would be both disputed and controversial. Nevertheless, the Department simply is not in a position to make that kind of determination.

Therefore, if this legislation is enacted the Department will use information from other sources to identify the oil-spill impacted municipalities and will then implement an arbitrary but objective mechanism to make the allocation of the \$4,500,000 to those municipalities. Specifically, that will be a two step process. The first step will compare FY 90 revenue sharing to FY 89 revenue sharing. Refunds will be allocated to each identified municipality that has suffered a reduction in FY 90 from FY 89. The second step will involve allocating the remainder of the appropriation to those identified municipalities that suffered reductions after total refunds and actual FY 90 revenue sharing are subtracted from "projected" FY 90 revenue sharing levels.

The "projected" revenue sharing levels have been taken from an interim report prepared by a private consulting firm on behalf of a subcommittee of the Alaska Conference of Mayors. Oil spill impacted communities have also been identified from this report and a March 13, 1990 discussion paper regarding Raw Fish Tax Revenue Sharing addressed to Senator Szymanski from Bob LeResche, the Oil Spill Coordinator. The Department does not necessarily endorse and expresses no opinion on the validity of the data, conclusions or assumptions upon which this aspect of the fiscal note has been prepared.

The allocation of the \$4,500,000 will be made to the municipalities as shown on the next page.

<u>Municipality</u>	<u>1st Allocation</u>	<u>2nd Allocation</u>	<u>Total Allocation</u>
Kodiak Island	\$ 962,090	14,629	\$ 976,719
Cordova	445,609	569,875	1,015,484
Kodiak	368,755	5,029	373,784
Seldovia	35,526	274	35,800
Seward	62,967	115,840	178,807
Valdez	0	106,240	106,240
Whittier	51,897	25,600	77,497
Larsen Bay	0	76,800	76,800
Kenai Peninsula	895,362	0	895,362
Chignik	334,097	0	334,097
Homer	143,623	0	143,623
Kenai	284,474	0	284,474
Port Lyons	296	0	296
Soldotna	<u>1,017</u>	<u>0</u>	<u>1,017</u>
	\$3,585,713	914,287	\$4,500,000



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325, Fax (907) 463-5480

April 18, 1991

In Support of HB 276 - Making an appropriation to the Department of Revenue for the fisheries tax refund program

The Alaska Municipal League supports HB 276, which will allow for the allocation of funds to municipalities that lost revenue from the fisheries business tax as a result of the *Exxon Valdez* oil spill. The League urges rapid consideration and passage of this legislation.

Fisheries business tax revenue is critical to the financial stability of many Alaskan communities. Providing these funds now, with the stipulation that municipalities must agree to reimburse the state for up to the amount of the allocation if, and to the extent that, the municipality receives compensation for these lost revenues from another source, will enable affected municipalities to provide basic services to their citizens without further interruption as a result of the oil spill.

STATE OF ALASKA
House of Representatives
District 27

Representative Cliff Davidson
Chairman
House Resources Committee



Box V, Juneau, AK 99811
(907) 465-2487
Box 746, Kodiak, AK 99615
(907) 486-8250

TO: House Resources Committee Members
FROM: Representative Cliff Davidson
DATE: 24 April 1991
SUBJECT: House Bill 276 - An appropriation to reimburse municipalities for lost Fisheries Business Tax as a result of the Exxon Valdez oil spill.

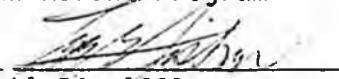
During the fishing season of 1989, much of the fisheries of the central Gulf of Alaska were shut down by the departments of Fish and Game and Environmental Conservation in order to prevent oiled seafood from inadvertently entering the consumer market. Support for that decision was widespread within the industry. The potential for a marketing disaster had tainted seafood products reached consumers was just too great.

However, most of our coastal communities rely heavily upon the Fisheries Business Tax receipts to fund municipal government services. With fishing curtailed, those revenues dried up.

To date, the municipalities have not been reimbursed for those lost revenues and it was explicitly left out of the proposed Exxon Valdez settlement recently negotiated between Exxon, the State of Alaska and the U.S. Government. There is every expectation that this money will eventually be recovered from Exxon, but in the meantime many of the affected municipal governments are in desperate need of those missing funds.

House Bill 275 reimburses the Fisheries Business Tax revenues lost to the coastal municipalities during that dark summer of 1989, pending eventual recovery from Exxon.

DEPARTMENT OF REVENUE
BILL NO: HB 276
TITLE: Appropriation for the Fisheries
Tax Refund Program

APPROVED: 
DATE: April 24, 1991

POSITION PAPER

The Department of Revenue has reviewed HB 276 and the Senate companion SB 240 and with minor amendment supports the legislation.

As a result of the Exxon Valdez oil spill of March 25, 1989 many Prince William Sound and Gulf of Alaska communities suffered a substantial loss of fish tax revenues. These bills intend to use the state's general fund to assist those communities who can demonstrate actual financial losses as a direct result of the spill. We estimate these losses to total approximately 3.5 million dollars. The department will carefully review claims from individual communities including detailed back-up to substantiate the claims and to determine the amount to be paid from this bill. The municipalities will continue to pursue their claims with Exxon, and before receiving proceeds from this legislation will agree to reimburse the State up to the amount paid from this bill if they prevail in court or through settlement. The State will cooperate with the municipalities in pursuit of their claims to Exxon.

There appears to be no question that the communities lost these revenues as a result of the spill. Last year it appeared that a settlement with the municipalities would be paid by Exxon; the largest questions were entitlements which have now been documented. It is our understanding that Exxon has been seeking a broader settlement with the municipalities, and refuses to pay the fish tax claims separately. For many communities the fish tax revenue is a major part of their operating revenues (20-50%). The municipalities have all the data necessary, including estimated potential catch and actual prices necessary to prepare and submit detailed claims for reimbursement of lost revenues.

Since the State of Alaska collects the fish tax and pays 50% to the municipalities, there is some question as to the strength of the municipalities legal position to collect the raw fish tax loss from Exxon since the municipalities are beneficiaries but not legal collectors of raw fish tax. In addition, the spill settlement by the State places the municipalities at a further disadvantage in pursuit of their claims. For these reasons, we support payment of these claims by the State of Alaska to make the municipalities whole from the Oil Spill. The municipalities have suffered large loss and should not be expected to absorb the loss of the raw fish tax revenue as well. Because of receiving these funds the municipalities will be better able to afford the pursuit of their claims against Exxon for fish tax and other major impacts. The amendment we suggest at this time is a reduction of the amount in section #2 from \$4.5 million to \$3.5 million.

This Position Paper supplements the fiscal note analysis prepared on April 19, 1991. The comments in that document relate, properly, to the mechanical functions in DOR relative to this legislation. This Position Paper addresses the philosophical position of whether it is right or wrong for the State to make this appropriation.

HB

296

2d CS FOR HOUSE BILL NO. 296 (RESOURCES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES DAVIDSON, Lincoln, Grussendorf, Gruenberg, MacLean, Koponen, Ivan, Gonzales, G.Phillips, Parnell, Kubina, Donley, Mackie

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to human remains and funerary objects."

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

3 * Section 1. AS 12.65 is amended by adding new sections to read:

4 ARTICLE 2. HUMAN REMAINS.

5 Sec. 12.65.150. REPORTS OF HUMAN REMAINS. (a) Except as provided in (b) of
6 this section, a person who encounters human remains in or on land or water in the state shall

7 (1) immediately cease any activity that may cause further disturbance of the area;

8 and

9 (2) report the presence and location of the remains to the nearest law enforcement
10 agency as soon as possible considering the location of the discovery and the availability of
11 communication alternatives.

12 (b) The requirements of (a) of this section do not apply to a person who encounters
13 human remains while operating under a permit issued under AS 41.35.080.

14 (c) If the law enforcement agency determines that remains reported to it under (a) of this

1 section are unrelated to a prosecutable offense and may be human remains with historic or
2 prehistoric significance, the agency shall notify the Department of Natural Resources.

3 (d) A person who knowingly fails to comply with (a) of this section is guilty of a
4 violation punishable by a fine of \$50.

5 Sec. 12.65.160. UNLAWFUL ACTS. A person may not sell, buy, or barter human
6 remains that were originally found in or on the land or water in the state. A person who violates
7 this section is guilty of a class A misdemeanor.

8 Sec. 12.65.170. DEFINITION. In AS 12.65.150 - 12.65.170, "human remains" means
9 a dead human body or part of a dead body in any stage of decomposition, excluding body parts
10 that are normally shed during life, such as hair, nails, and isolated teeth.

11 * Sec. 2. AS 41.35.040 is amended to read:

12 Sec. 41.35.040. ADMINISTRATION AND FINANCIAL SUPPORT OF MONUMENTS
13 AND HISTORIC SITES. State-owned monuments, sites, and other historic, prehistoric, or
14 archeological properties owned or purchased by the state are under the control of the department,
15 and their maintenance shall be covered in the appropriations made to the department. Privately
16 owned state monuments or historic sites are eligible to receive state support for their
17 maintenance, restoration, and rehabilitation if they are kept accessible to the general public, they
18 are in compliance with state laws pertaining to human remains and funerary objects, and
19 application for support is made in conformity with regulations adopted by the commissioner.

20 * Sec. 3. AS 41.35.060(a) is amended to read:

21 (a) The department, with the recommendation of the committee, may acquire real and
22 personal properties that have statewide historic, prehistoric, or archeological significance by gift,
23 purchase, devise, or bequest. If the department acquires disinterred human remains or
24 funerary objects under this subsection, it shall comply with AS 41.35.410. The department
25 shall preserve and administer property so acquired. The department may acquire property
26 adjacent to the property having historic, prehistoric, or archeological significance when it is
27 determined to be necessary for the proper use and administration of the significant property.

28 * Sec. 4. AS 41.35.070 is amended by adding a new subsection to read:

29 (h) If the department discovers human remains or funerary objects during a survey under
30 (d) of this section, the department shall comply with AS 12.65.150 and AS 41.35.410.

31 * Sec. 5. AS 41.35.080 is amended to read:

1 Sec. 41.35.080. PERMITS. The commissioner may issue a permit for the investigation,
2 excavation, gathering, or removal from the natural state [,] of any historic, prehistoric, or
3 archeological resources of the state or human remains or funerary objects reported under
4 AS 12.65.150 or AS 41.35.410. A permit may be issued only to persons or organizations
5 qualified to make the investigations, excavations, gatherings, or removals and, except as
6 otherwise provided in the permit issued under of this section, only if the results of these
7 authorized activities will be made available to the general public through institutions and
8 museums interested in disseminating knowledge on the subjects involved. If the historic,
9 prehistoric, or archeological resource involved is one that [WHICH] is, or is located on a site
10 that [WHICH] is, sacred, holy, or of religious significance to a cultural group, the consent of that
11 cultural group must be obtained before a permit may be issued under this section.

12 * Sec. 6. AS 41.35.090 is amended to read:

13 Sec. 41.35.090. NOTICE REQUIRED OF PRIVATE PERSONS. Before any
14 construction, alteration, or improvement of any nature is undertaken on a privately owned,
15 officially designated state monument or historic site by any person, the person shall give the
16 department three months' [MONTHS] notice of intention to construct on, alter, or improve it.
17 If the construction, alteration, or improvement involves known reasonably identifiable
18 human remains or funerary objects, the person shall also give three months' notice of
19 intention to construct, alter, or improve to the descendants or tribe of the decedent whose
20 remains are involved. Before the expiration of the three-month notification period, the
21 department shall either begin eminent domain proceedings under AS 41.35.060(b) or undertake
22 or permit the recording and salvaging of any historic, prehistoric, or archeological information
23 considered necessary.

24 * Sec. 7. AS 41.35.230 is amended to read:

25 Sec. 41.35.230. DEFINITIONS. In this chapter [AS 41.35.010 - 41.35.240], unless the
26 context otherwise requires,

27 (1) [REPEALED

28 (2)] "committee" means the Historic Sites Advisory Committee;

29 (2) "funerary objects" means items for which there is direct circumstantial
30 evidence, expert opinion, or documentation that the items were directly associated with
31 human remains or were intentionally placed with human remains either at the time of

1 burial or interment or at some subsequent time, as a part of the death rites or ceremonies
2 of a culture;

3 (3) [REPEALED

4 (4) "historic, prehistoric and archeological resources" includes deposits,
5 structures, ruins, sites, buildings, grave sites [GRAVES], artifacts, fossils, or other objects of
6 antiquity that [WHICH] provide information pertaining to the historical or prehistorical culture
7 of people in the state as well as to the natural history of the state, except that the term does not
8 include human remains or funerary objects;

9 (4) "human remains" means a dead human body or part of a dead body in
10 any stage of decomposition, excluding body parts shed during life, such as hair, nails, and
11 isolated teeth;

12 (5) "Native" means a person who is a descendant or ancestor of the
13 aboriginal races inhabiting the state when it was annexed to the United States or a
14 descendant or ancestor of an Indian or Eskimo who, after the year 1867, migrated into the
15 state from Canada;

16 (6) "reasonably identifiable" means identifiable, by a preponderance of the
17 evidence, as to individual, familial, or tribal origin based on available archeological,
18 historical, ethnological, or other direct circumstantial evidence or expert opinion;

19 (7) "tribe" means a group recognized as a tribe by the United States
20 Secretary of Interior, or a Native village or regional corporation or other Native group
21 defined in or established under 43 U.S.C. 1601 - 1641 (Alaska Native Claims Settlement
22 Act).

23 * Sec. 8. AS 41.35 is amended by adding new sections to read:

24 ARTICLE 3. DISCOVERY OF HUMAN REMAINS AND FUNERARY OBJECTS.

25 Sec. 41.35.410. HUMAN REMAINS AND FUNERARY OBJECTS. (a) When human
26 remains are discovered by or reported to the department, the department shall notify the nearest
27 law enforcement agency unless a report has already been made under AS 12.65.150. After law
28 enforcement activities related to the remains have ceased, the department shall comply with (c)
29 of this section.

30 (b) A person who discovers funerary objects shall promptly report the discovery to the
31 department. Unless the department determines upon further investigation that the objects are

1 probably not funerary objects, the department shall comply with (c) of this section.

2 (c) If human remains or funerary objects described in (a) and (b) of this section are not
3 disinterred, the department shall leave them in the place where they are interred, when possible.
4 If the human remains or funerary objects are disinterred and the decedent's living descendants
5 are reasonably identifiable, the department shall, by certified mail return receipt requested, notify
6 the decedent's relative with the closest kinship ties that the remains and funerary objects are
7 available for disposition. If the remains and funerary objects include Native human remains or
8 funerary objects and the department is unable to ascertain the existence and address of living
9 descendants of the descendant, the department shall determine with as much specificity as
10 possible their tribe of origin and notify the governing body of the tribe of their discovery and
11 location. If a specific tribe of origin is not reasonably identifiable, the department shall, by
12 certified mail return receipt requested, give the notice of the discovery and its location to the
13 governing body of the tribe whose members predominate in the vicinity of the discovery.

14 (d) At the request of a descendant or the governing body of a tribe notified under (c) of
15 this section, the department shall provide for access to the remains or funerary objects so that the
16 descendant or the tribe may dispose of them. A tribe may not be allowed to have access until
17 the tribe's plan for disposition of the remains or objects has been submitted to the department.
18 If, within 120 days after notification by the department by certified mail return receipt requested,
19 neither a descendant nor a tribe seeks the right to dispose of the remains or funerary objects, the
20 department shall treat them in the same manner as it treats other unclaimed human remains or
21 historic, prehistoric, and archeological resources under this chapter, as applicable.

22 (e) A person may request a tribe or descendant to grant to the person an opportunity to
23 study human remains or funerary objects for which the tribe or descendant is granted disposition
24 rights under (c) of this section.

25 Sec. 41.35.420. DISPUTE RESOLUTION COMMITTEE. When needed, the governor
26 shall establish a committee to advise the department concerning conflicting claims of tribes and
27 descendants with respect to disposition rights for human remains and funerary objects. A
28 committee consists of the state liaison officer appointed under 16 U.S.C. 470 - 470n (National
29 Historic Preservation Act) and the following persons, who shall be appointed by the governor as
30 the need arises:

31 (1) an archeologist with osteological expertise or a physical anthropologist; and

- 1 (2) three descendants of the person whose remains or funerary objects are in
- 2 dispute or a person from each tribe that has a colorable claim to the human remains or funerary
- 3 objects that are the subject of the dispute, whichever is appropriate.

HOUSE BILL 296
"RELATING TO HUMAN REMAINS AND FUNERARY OBJECTS"

<u>ISSUE</u>	<u>CURRENT LAW</u>	<u>HB 296</u>
<u>TITLE 12</u> <u>Discovery of Human Remains</u>	No direction on who to contact	Contact nearest law enforcement Violation with \$50 fine for not reporting. Class A misdemeanor to sell, buy or barter human remains.
<u>TITLE 41</u> <u>ALASKA HISTORIC PRESERVATION ACT</u> <u>State Lands</u>	State reserves title to all historical, prehistoric & archeological resources on state land. Preserved and administered by DNR. Study allowed by permit. Public construction stops until site is expeditiously salvaged. Law stays the same. Class A misdemeanor to excavate, destroy, deface gravesites.	Human remains and funerary objects are separated from "resource" definition. Treated differently because of cultural significance. Study allowed by request. Leave remains intact if possible. If not, try to reasonably define descendants or if can't, and remains include Native remains contact nearest governing body of the predominate tribe in the discovery area.
<u>Federal Lands</u>	Archaeological Resources Protection Act protects archaeological resources and sites which are on federal lands.	No change. Title 12 change in HB 296 requires law enforcement be notified of discovery.

Private Lands

Historical resources on private land belong to the land owner. State can obtain through eminent domain proceedings.

Human remains & funerary items are separated from the resource definition. Discovery must be reported and disposition procedure followed as on state lands.

STATE OF ALASKA
1992 LEGISLATIVE SESSION

FISCAL NOTE

NO. 4
Bill Number: CSHB 296 (JUD)
(H) Publish Date: 2/18/92

Revision Date: 01/16/92 Department Affected: Public Safety
 Title: An Act relating to human remains and funerary objects. BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Davidson
 Requestor: House Rules COMPONENT SERIAL NO.

7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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 FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)
 No fiscal impact upon the Division of Alaska State Troopers is anticipated.

Prepared By: Gayle A. Horetski Phone: 465-4322
 Division: Alaska State Troopers Date: 01/20/92
 Approved by Commissioner: Gayle A. Horetski for Richard L. Burton
 Agency: Department of Public Safety Date: 01/20/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

COMMITTEE COPY

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Natural Resources
Title: Re: Human Remains and Funerary BRU: _____
objects Component: _____
Sponsor: Rep. Davidson
Requestor: House Finance Committee COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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 FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Rep. Mike Navarre, Co-Chair *Mike Navarre* Phone: 465-3706
Rep. Eileen MacLean, Co-Chair *Eileen MacLean* Phone: 465-3722
Division: House Finance Committee Date: Feb. 18, 1992

Approved by Commissioner: _____
Agency: _____ Date: _____

Committee Copy

HB

299

Alaska State Legislature
House of Representatives

RECEIVED MAY 2 1991

INTERIM

3111 C Street
Anchorage, Alaska 99503
(907) 561-2032



SESSION

P.O. Box V
Juneau, Alaska 99811
(907) 465-2995

Representative Dave Choquette

May 2, 1991

To: Representative Cliff Davidson
Chair, Natural Resources Committee

From: Representative Dave Choquette *[Signature]*
Vice Chair, Special Committee/on Oil and Gas

Re: Municipal Liability for Release of Hazardous Substances
by Another Person

The Municipality of Anchorage has brought to my attention a crucial issue that will affect summer construction projects throughout the state unless promptly resolved. It is addressed in HB299. As AS 46.03.822(a)(1) is now written, municipalities and utilities may be held liable by the mere act of discovery of hazardous substances for the cleanup of these substances generated by or from a facility or vessel owned by another person.

During the summer months the municipalities provide essential services -- from the laying or relaying of water and gas lines to the laying of telephone and television cable -- that require deep excavation. In developed areas it is almost impossible to complete this excavation without discovering contamination caused by petroleum products. When the municipality or utility discovers the contamination in the right-of-way or easement, the municipality is required to halt further construction or repair, which breaches contractual obligations the munis owe to third parties; remove the contaminated soil only within the right-of-way; again begin construction or repair; and finally seek damages against the responsible party who caused the contamination in the first place. In the meanwhile the newly replaced soil is only subject to further recontamination by the surrounding soil. ★

The proposed legislation would do three things. It would remove strict liability for municipalities and utilities for: ★

★ ★
★ ★

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

WALTER J. HICKEL, GOVERNOR

April 30, 1991

BILL NUMBER: CSHB 299 (O&G)

TITLE: Relating to municipal and utility liability for releases or threatened releases of hazardous substances.

DEPARTMENT POSITION: DEC does not oppose this bill.

ANALYSIS:

This legislation would exempt from the strict liability statutes municipalities and utilities which discover a release or possible release of hazardous substance in a state, municipal, or utility right-of-way during excavation, providing the release or threatened release was caused by the municipality's or utility's negligence, recklessness or intentional misconduct, and providing the municipality or utility reports the release or threatened release to DEC as required under current law.



John A. Sandor, Commissioner
Alaska Department of Environmental Conservation

CORRECTION

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

Alaska State Legislature
House of Representatives

RECEIVED MAY 2 1991

INTERIM

3111 C Street
Anchorage, Alaska 99503
(907) 561-2032



SESSION

P.O. Box V
Juneau, Alaska 99811
(907) 465-2995

Representative Dave Choquette

May 2, 1991

To: Representative Cliff Davidson
Chair, Natural Resources Committee

From: Representative Dave Choquette *[Signature]*
Vice Chair, Special Committee on Oil and Gas

Re: Municipal Liability for Release of Hazardous Substances
by Another Person

The Municipality of Anchorage has brought to my attention a crucial issue that will affect summer construction projects throughout the state unless promptly resolved. It is addressed in HB299. As AS 46.03.822(a)(1) is now written, municipalities and utilities may be held liable by the mere act of discovery of hazardous substances for the cleanup of these substances generated by or from a facility or vessel owned by another person.

During the summer months the municipalities provide essential services -- from the laying or relaying of water and gas lines to the laying of telephone and television cable -- that require deep excavation. In developed areas it is almost impossible to complete this excavation without discovering contamination caused by petroleum products. When the municipality or utility discovers the contamination in the right-of-way or easement, the municipality is required to halt further construction or repair, which breaches contractual obligations the munis owe to third parties; remove the contaminated soil only within the right-of-way; again begin construction or repair; and finally seek damages against the responsible party who caused the contamination in the first place. In the meanwhile the newly replaced soil is only subject to further recontamination by the surrounding soil. ★

The proposed legislation would do three things. It would remove strict liability for municipalities and utilities for: ★

★ ★

★ ★

- a. the costs or damages that result from the release of the hazardous substance into a right of way or easement, when that release is discovered as a result of excavation by the municipality or utility;
- b. the storage of the excavated material in the easement or right of way; and
- c. the reuse or replacement of the excavated material in the easement or right of way in or near the point of excavation.

None of these provisions would apply if the municipality or utility caused the release or threatened release by their negligence, recklessness, or intentional misconduct.

If this bill were to be adopted, the municipality or utility would still be responsible for reporting all suspected discoveries of hazardous substance spills to DEC. DEC would then be able to find the responsible parties who would embark on a complete cleanup of the hazardous substance instead of only a partial cleanup within a municipal, utility, or state right-of-way.

Thank you for your attention to this matter.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

WALTER J. HICKEL, GOVERNOR

April 30, 1991

BILL NUMBER: CSHB 299 (O&G)

TITLE: Relating to municipal and utility liability for releases or threatened releases of hazardous substances.

DEPARTMENT POSITION: DEC does not oppose this bill.

ANALYSIS:

This legislation would exempt from the strict liability statutes municipalities and utilities which discover a release or possible release of hazardous substance in a state, municipal, or utility right-of-way during excavation, providing the release or threatened release was caused by the municipality's or utility's negligence, recklessness or intentional misconduct, and providing the municipality or utility reports the release or threatened release to DEC as required under current law.



John A. Sandor, Commissioner
Alaska Department of Environmental Conservation

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 299

Revision Date: _____
 Title: Municipal and utility liability for
release of hazardous substances
 Sponsor: House Oil & Gas Comm.
 Requestor: House Oil & Gas Comm.

Department Affected: DEC
 BRU: Environmental Quality
 Component: E.Q. Projects

COMPONENT SERIAL NO.

1	10	1	16
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Janice Adair
 Division: Commissioner's Office

Phone: 465-2600
 Date: 4/30/91

Approved by Commissioner: [Signature]
 Agency: Dept. of Environmental Conservation

Date: 4/30/91

Alaska State Legislature
House of Representatives



INTERIM

3111 C Street
Anchorage, Alaska 99503
(907) 561-2032

SESSION

P.O. Box V
Juneau, Alaska 99811
(907) 465-2995

Representative Dave Choquette

April 19, 1991

To: House Members of the Oil and Gas Committee

From: Representative Dave Choquette *[Signature]*

Re: Municipal Liability for Release of Hazardous Substances
by Another Person

The Municipality of Anchorage has brought to my attention a crucial issue that will affect summer construction projects throughout the state unless promptly resolved. As AS 46.03.822(a)(1) is now written, municipalities and utilities may be held liable by the mere act of discovery of hazardous substances for the cleanup of these substances generated by or from a facility or vessel owned by another person.

During the summer months the municipalities provide essential services -- from the laying or relaying of water and gas lines to the laying of telephone and television cable -- that require deep excavation. In developed areas it is almost impossible to complete this excavation without discovering contamination caused by petroleum products. When the municipality or utility discovers the contamination in the right-of-way or easement, the municipality is required to halt further construction or repair, which breaches contractual obligations the munis owe to third parties; remove the contaminated soil only within the right-of-way; again begin construction or repair; and finally seek damages against the responsible party who caused the contamination in the first place. In the meanwhile the newly replaced soil is only subject to further recontamination by the surrounding soil.

The proposed legislation would do three things. It would remove
municipal or utility liability for:



- a. the costs or damages that result from the release of the hazardous substance into a right of way or easement, when that release is discovered or occurs as a result of excavation by the municipality or utility;
- b. the storage of the excavated material in the easement or right of way; and
- c. the reuse or replacement of the excavated material in the easement or right of way in or near the point of excavation.

None of these provisions would apply if the municipality or utility caused the release or threatened release by their negligence, recklessness, or intentional misconduct.

If this bill were to be adopted, the municipality or utility would still be responsible for testing excavated soil. If it is contaminated, they will contact DEC to make them aware of the problem and go on to complete their project or needed repairs. DEC would then be able to find the responsible parties who would embark on a complete cleanup of the hazardous substance instead of only a partial cleanup within a municipal, utility, or state right-of-way.

I welcome your suggestions on this bill, and hope we can come to agreement on it so that it may be introduced by the House Special Committee on Oil and Gas.

Thank you.

Municipality of Anchorage



ENTERPRISE ACTIVITIES

P.O. BOX 198850
ANCHORAGE, ALASKA 99519-8850
(907) 343-4906

Tom Fink,
Mayor

April 16, 1991

Representative Dave Choquette
House of Representatives
P.O. Box X
Juneau, Alaska 99811

Dear Representative Choquette:

We have reviewed your draft House Bill, attached, and find it acceptable. Sec. 2. AS 46.03.822 satisfies the concerns of the Municipality of Anchorage, its utilities and the expectations of private utilities. We would expect support from all other municipalities and utilities throughout the state.

Thank you for your assistance.

Sincerely,

Will Gay
Executive Manager

Attachment

POSITION PAPER
HAZARDOUS MATERIAL CLEANUP
MUNICIPALITY OF ANCHORAGE

Municipality Liability for Release of Hazardous Substances by
Another Person

It is essential that Municipalities receive a waiver of liability for the cleanup of hazardous substances generated by or from a facility or vessel owned by another person. Construction projects, throughout the state and in Anchorage, will grind to a halt if the current statute is not amended.

Contamination by petroleum products is common in developed areas because of leaking underground fuel storage tanks (i.e., gasoline, furnace oil) and surface spills from vehicles, fuel stations, homeowners, etc. It is almost impossible to do extended deep excavation in Anchorage for laying or relaying a water or sewer main, telephone cable, electric cable or gas lines without encountering some evidence of petroleum products.

Unless the contamination was the direct result of negligence or misconduct by the utility, the utility should not be liable for cleanup of contamination, within Municipal rights-of-ways, discovered while either designing or constructing a utility project. The Municipality should report the discovery of any contamination to the Alaska Department of Environmental Conservation and then proceed on with the project.

It is imperative that construction contracts not be halted or delayed. The short Alaskan construction season does not allow time for project delays. The Municipality or utilities will also be liable for substantial damage claims from contractors for delay caused by halting work. In a large project these delay claims could cost more than cleaning up the contamination caused by others solely because Municipalities or utilities are perceived to be a deep pocket.

The provision of essential services such as roads, storm drains, water and sewer mains, gas lines, cable television, telephone cable, and electric cable will be severely delayed and the cost substantially increased if this issue is not promptly resolved. A number of projects in Anchorage and the surrounding area are on hold now because of this issue.

How

Fairbanks Municipal Utilities System

April 23, 1990

VIA FAX -

The Honorable Steve Frank
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, AK 99811



Dear Senator Frank:

This letter is to request that you support House Bill 547 or have similar language added to another bill which is likely to pass. This bill provides an exemption from liability created by AS 46.03.822 to municipalities to clean up oil or other hazardous waste discovered by them in rights-of-way owned by municipalities, unless the release of the hazardous waste was caused by actions of the municipality.

Enclosed is a memo from Ron Smith, the Fairbanks Deputy City Attorney, which shows that there is currently a real risk to the City to excavate in City rights-of-way for underground utilities. We just learned that Anchorage currently has a suit pending to require them to pay for clean up of an oil spill. This oil spill was caused by a leaking tank from a gas station. Anchorage discovered and reported the oil while excavating to install a water line in a right-of-way owned by the municipality. The landowner downstream from the gas station and the utility right-of-way is suing the City using the strict liability provisions of this state statute to require Anchorage to clean up the oil from the leaking gas station's underground tanks.

While I am sure that AS 46.03.822 was never intended to be this broadly interpreted, this lawsuit shows that it can be. Even if the courts ultimately resolve this in favor of municipalities the City can expend a tremendous amount of money defending such a law suit. If a legal theory is arguable, then with their deep pockets municipalities make attractive targets to lawyers.


As you are aware the City of Fairbanks, as well as other Alaskan cities, is having serious financial trouble. Granting municipalities this exemption is something the Legislature can do to assist municipalities without costing the State any money.

Municipal Utilities System

The Honorable Steve Frank
April 23, 1990
Page Two

Again, I urge you to support this bill. If I or Ron Smith can assist in any way or answer any questions, please call me at 459-6211 or Ron Smith at 459-6340.

Sincerely,



V.M. Gillespie
Deputy City Manager-
Utilities

Enclosure: Memo of Ron Smith, April 20, 1990

xc: City Council
Public Utilities Board

City of Fairbanks

From the
City Attorney's Office

MEMORANDUM

APR 23 1990

Deputy City Mgr.
UW:mas

TO: Virgil Gillespie, Deputy City Manager - Utilities
FROM: *Ron Smith*
Ron Smith, Deputy City Attorney
SUBJECT: House Bill No. 547 - Liability of MUS for Clean-up of
Spill Discovered by MUS While Installing Underground
Utilities
DATE: April 20, 1990

Yesterday I received a call from Mr. Bill Huffman, the Assistant Enterprise Manager for Anchorage, 343-4906. He asked that the City support House Bill No. 547 and in particular request the support of Senator Steve Frank.

This Bill provides an exemption from liability created by AS 46.01.822 to municipalities to clean up oil or other hazardous waste discovered by them in right-of-ways owned by municipalities unless the release of the hazardous waste was caused by actions of the municipality.

He related that Anchorage currently has a suit pending to require them to pay for clean up of an oil spill. This oil spill was caused by a leaking tank from a gas station. Anchorage discovered and reported the oil while excavating to install a water line in a right-of-way owned by the municipality. The landowner downstream from the gas station and the Anchorage right-of-way is suing Anchorage using the strict liability provisions of this state statute to require Anchorage to clean up the oil from the leaking gas station's underground tanks.

I could not believe that the statute could be interpreted this broadly. However, it imposes strict liability on owners of "a facility, from which there is a release...of a hazardous substance." "Facility" is defined to include "a site or area at which a hazardous substance has been deposited, stored, disposed of, placed, or otherwise located (emphasis added)."

It is not absolutely clear that Anchorage is going to be liable. However, I called Cam Leonard, the Assistant Attorney General who advises DEC here in Fairbanks. He told me that there have not yet been any court decisions interpreting this statute. He also agreed with me that imposition of liability to clean up would not be fair to a utility that has done nothing wrong. However, it was his opinion that the statute was written very broadly and that it could be argued that a municipal utility could be held liable for the cost of clean up of oil discovered when excavating to install an underground utility line.

House Bill No. 547
April 20, 1990
Page Two

Therefore, I request that MUS take a strong position that there be a statutory exemption for municipalities in this case. House Bill 547 does this and it should be adopted or the language in it attached to a bill that is going to be adopted this year. Bill Huffman mentioned that House Bill 220 on LUST (Leaking Underground Storage Tanks) is likely to be adopted and concerns the same subject matter.

cc: Brian Phillips
Kaye Barthelme
John Miko
Marty Lanum
Jon Paul Stanberg



BETHEL UTILITIES CORPORATION

3380 C Street, Suite 210
Anchorage, Alaska 99503
Phone: (907) 562-2500
FAX: (907) 562-2502

May 4, 1990

The Honorable John Binkley
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

VIA FAX - 4:15 P.M.

Dear Senator Binkley:

Today, we received a call from Mr. Bill Huffman, the Assistant Enterprise Manager for the Municipality of Anchorage. He asked that we contact you regarding a development that places clean-up liability on a Utility or Municipality that discovers petroleum product, or other hazardous waste, even though such waste was not caused by them.

From time to time we are required to dig up the ground in Bethel, Alaska. According to AS 46.03.822, if in the course of performing our work we discover a petroleum waste product, we have the responsibility and liability to clean up that waste. If we caused the waste situation, such as dig up a fuel line or our equipment leaks, then it is our responsibility to clean it up. But, if we simply discover a waste situation, we should not be burdened with anything more than reporting it to the proper authorities.

It is our understanding that HB 220 on LUST (Leaking Underground Storage Tanks) and HB 367 are bills that can provide an exemption from liability created by AS 46.03.822 to utilities or municipalities to clean up hazardous waste discovered by them, unless the release of hazardous waste was caused by the actions of them.

We strongly urge you support any legislation that will limit our liability to clean up a hazardous waste discovery if we did not cause it. Thank you.

Very truly yours,

A handwritten signature in cursive script, reading "TSS Sterrett, Jr.", written in dark ink.

Thomas S. Sterrett, Jr.
Controller

cc: Mr. Harold Borrego, Pres. of Bethel Utilities Corp.
Mr. Edward Tilbury, V.P. of Bethel Utilities Corp.
Mr. Bill Huffman, Asst. Enterprise Manager, MOA

HAZARDOUS MATERIALS IMPACT
ON
DOT/PF CENTRAL REGION PROJECTS

DRAFT

The following are typical projects which have encountered hazardous materials during design development.

1. Boniface Parkway - Tudor to Debarr
2. Sterling Highway MP79-94
3. Eagle River Highland Drive
4. Raspberry Road
5. Minnesota/International Airport Road Interchange
6. Old Seward Highway Dowling to Huffman
7. Anchor River Intersection
8. AIA Ramp Reconstruction
9. DeArmoun/Rabbit Creek Interchange

Hazardous materials can be expected on almost all major projects which are located within established developed areas.

The consequence of encountering hazardous materials during project development is dependant upon when the identification occurs. If the material is identified during design development, the associated costs and delays can be managed and to some extent controlled. If, however, the material is identified during construction when you have contract obligations, the cost and schedule impacts are more difficult to manage. It is, therefore, essential to adopt a process which assures early identification of potential hazardous materials sites and audits those sites in a systematic manner.

The range of impacts we have experienced include delays of up to several years in project delivery, added costs for material disposal and complicated right-of-way procurement requiring litigation to accomplish resolution.

Attached are outlines and checklists developed by AASHTO for use as a guide for dealing with hazardous waste during project development.

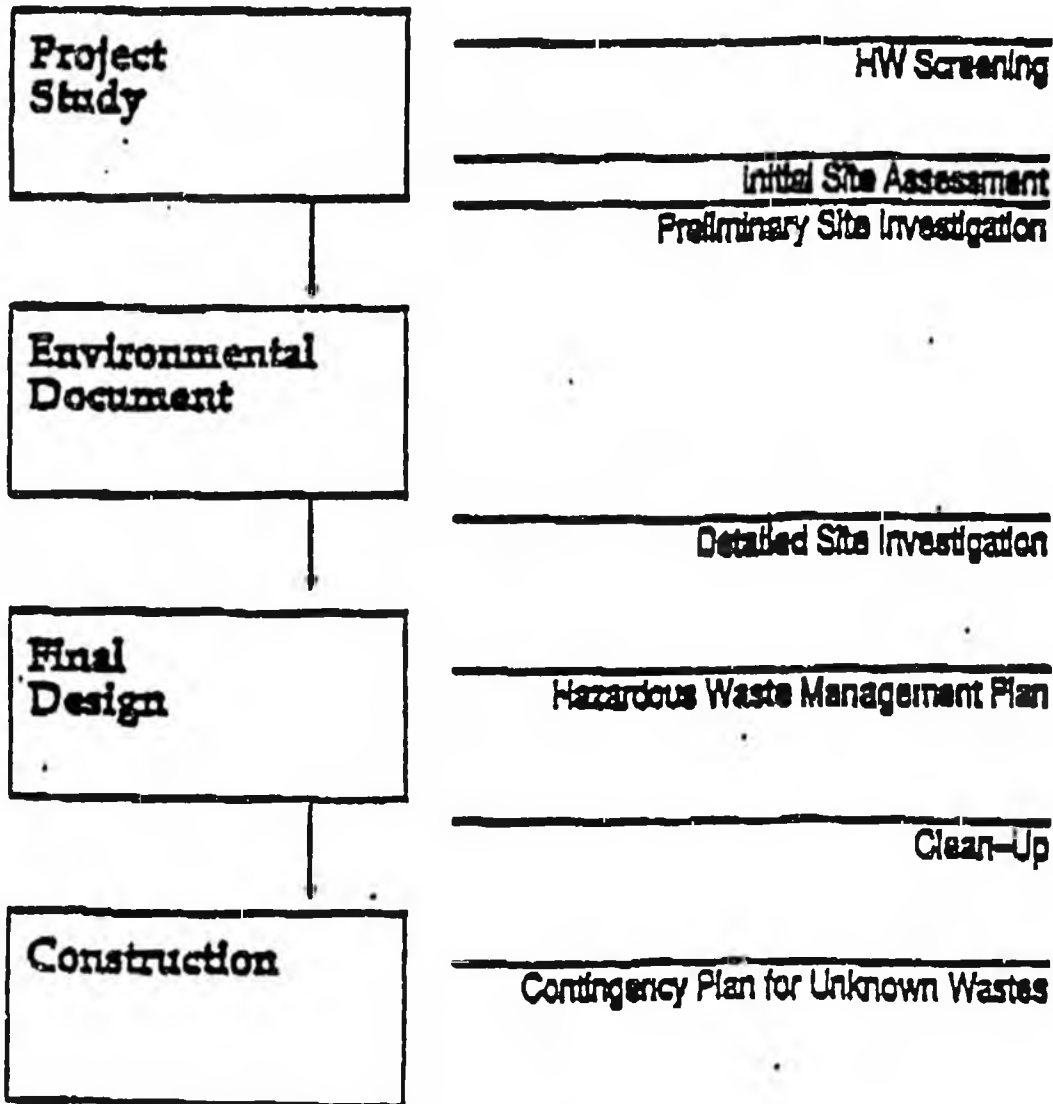
Attachments

DRAFT

M-2.2B

FIGURE 1

PROJECT DEVELOPMENT/HAZARDOUS WASTE STEPS



H-2.23
FIGURE 2

STEPS IN HAZARDOUS WASTE PROCESS

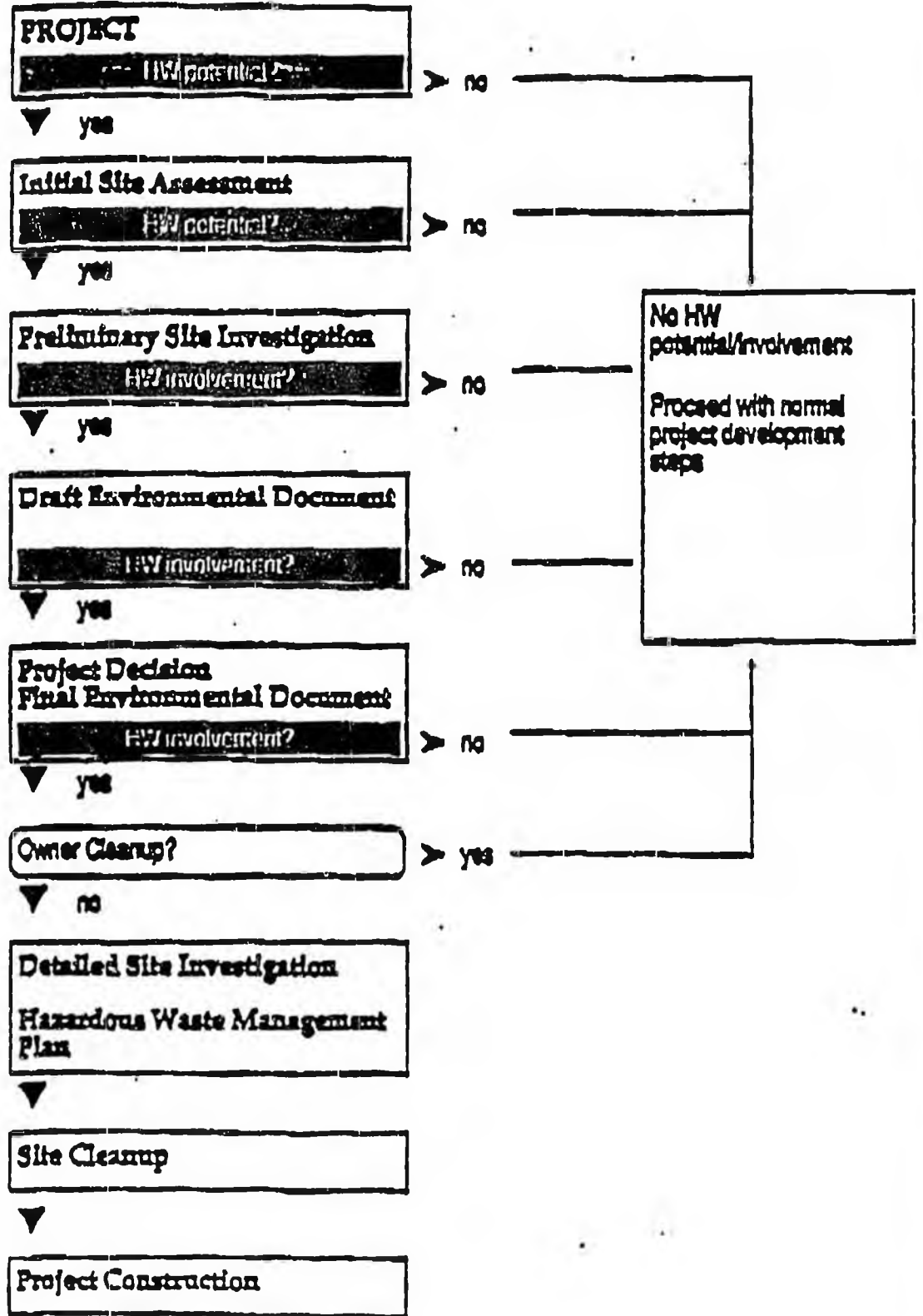


FIGURE 3

INITIAL SITE ASSESSMENT (ISA) CHECKLIST

Project information
District _____ County _____ Route _____ Postcode _____
Description _____

Does the project have potential hazardous waste involvement?

Screening Criteria
1. Project features New R/W? _____ Excavation? _____ Relocate utilities? _____ (rural/urban)
2. Land Use History and Development Setting
Current land uses _____
Previous land uses _____
Adjacent land uses _____

(Industrial, Light Industry, Commercial, Agriculture, Housing, Other --LIST)

1. In-house records retrieval _____
4. Any known hazardous waste sites in vicinity? _____ (If yes, identify & explain) _____

(If no HW potential determined, sign form otherwise survey project as necessary to supplement screening information)

Optional Records
County Assessor _____ Fire Dept. _____ Sanborn Ins. _____ Other _____
(Take photos of sites or sketch on back of ISA)

Visual Inspection	Contaminations	Potential asbestos-containing materials
Storage structures _____ Underpinned tanks _____ Surface tanks _____ Storage _____ Drums _____ Transformers _____ Landfill _____ Other _____ Site(s) _____	Surface staining _____ Oil stains _____ Odors _____ Vegetation damage _____ Other _____ Site(s) _____	Buildings _____ Sprayed-on fireproofing _____ Pipe wraps _____ Friable tile _____ Asbestos plaster _____ Site(s) _____

Comments _____
Conducted by: _____

HPB

306

McNeil River Proposals April 1991



Proposed McNeil River
State Game Sanctuary
Additions

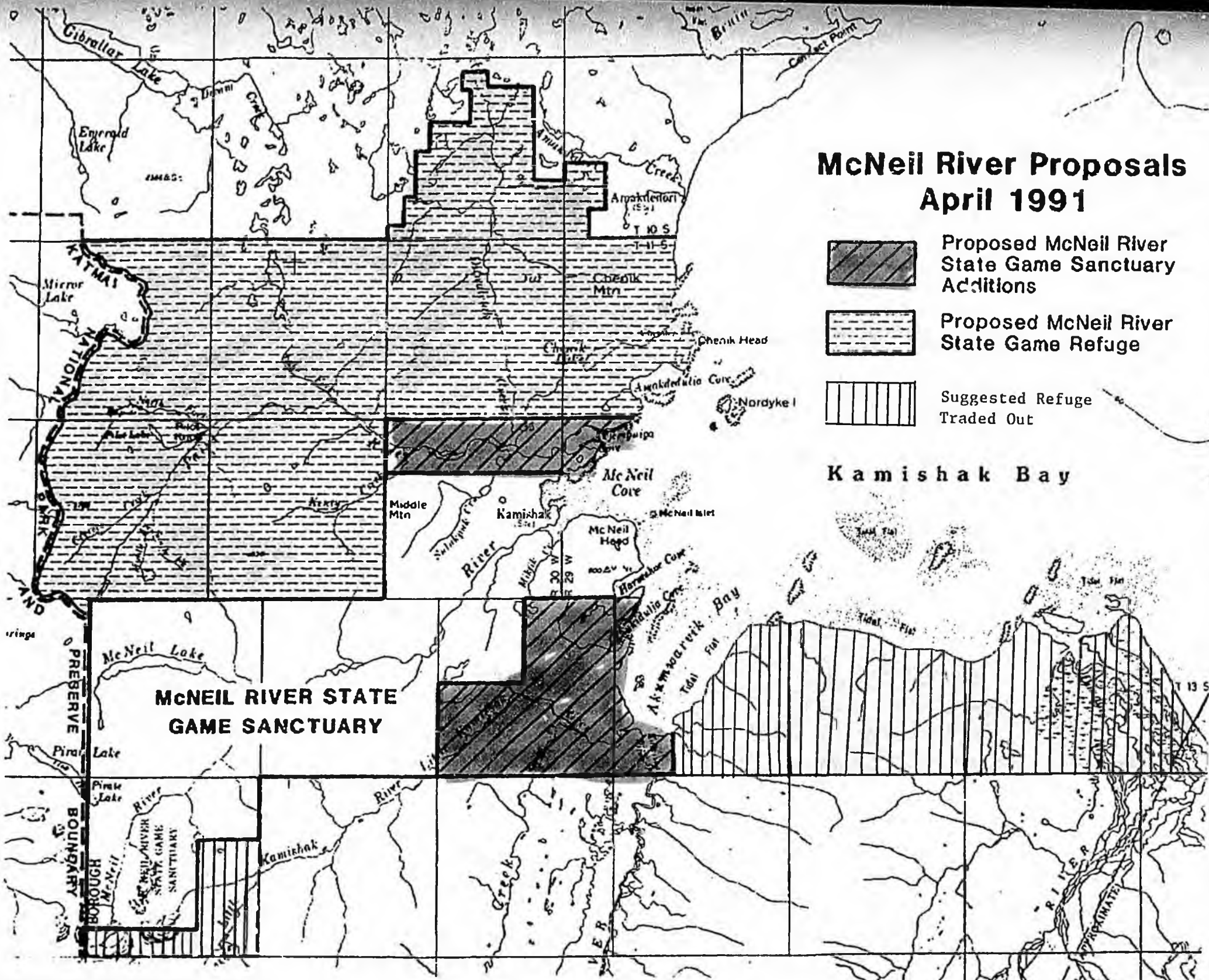


Proposed McNeil River
State Game Refuge



Suggested Refuge
Traded Out

Kamishak Bay



**MCNEIL RIVER STATE
GAME SANCTUARY**

PRESERVE
BOUNDARY

BOURGH
BOUNDARY

Alaska State Legislature



Speaker of the House of Representatives

P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

M E M O R A N D U M

TO: REP. BEN GRUSSENDORF
FROM: *JS* FALEENE SELE, STAFF
DATE: APRIL 25, 1991
RE: MCNEIL RIVER STATE GAME SANCTUARY/REFUGE

=====

Below are acreage estimates for existing land within the McNeil River State Game Sanctuary, proposed expansion of the sanctuary and proposed McNeil River State Game Refuge. Estimates provided by John Westlund of ADF&G's Wildlife Conservation office in Anchorage.

New northern extension: 8,640 acres
New southern extension: 20,480

Total extension: 29,120

Original McNeil Sanctuary: 83,800

Total Sanctuary acreage: 112,920

Total Refuge acreage: 131,840

TOTAL NEW ACREAGE IN BOTH SANCTUARY AND REFUGE = 160,960

Estimates based on # of sections multiplied by 640.

Northern Sanctuary sections: 13.5
Southern Sanctuary sections: 32
Refuge sections: 206

ADU
4/4/79

State decides not to change ladder plans

Bears may run into humans at Paint River salmon runs

By DAVID HULEN
Daily News reporter

The controversial fish ladder on the Paint River just outside the McNeil River bear sanctuary will apparently be built on schedule this summer without new restrictions on human activity around it, state wildlife authorities said Friday.

The \$3 million structure is to be built near the mouth of the Paint River, just three miles from the much-photographed falls on the McNeil where dozens of brown bears gather each summer to gorge on salmon.

The idea of the ladder, on the west side of Cook Inlet across from Homer, is to enable salmon to swim around a 35-foot waterfall and spawn in the system, creating a new major commercial salmon run.

But some conservationists think a large new salmon run so close to McNeil could threaten the bears that gather there — and the chance for people to watch so many of them — by drawing them out of the sanctuary and on to state land along the Paint, where bear hunting and sport fishing are allowed. Fish ladder opponents think the amount of human contact with bears could increase, endangering both bears and people.

Officials in the Department of Fish and Game have been discussing the idea in recent weeks of pressing for legislation to impose land-use restrictions on the area around Paint River. One idea was to press legislators to extend the McNeil River sanctuary north to cover the Paint River system, along with restrictions of hunting, fishing and other human activity.

Please see Page C-3, LADDER

LADDER: State decides to forgo new rules

ADU
4/4/79

Continued from Page C-1

But on Friday, Karl Schneider, acting regional supervisor of the Division of Wildlife Conservation, said Fish and Game officials in Juneau had not decided to push the legislation this year. With only a month or so left in this year's session, he said, it was unlikely that any such action would occur this year.

Part of the reason, he said, was that new appointees at the top of Fish and

Game, including the new state head of Wildlife Conservation, were just settling into their jobs and were still trying to get familiar with the issue. In addition, he said, groups involved with the issue haven't been able to agree on just what the department should do. Permits were issued for the project last year.

"I think they feel at this point they can't take a position," Schneider said. Nonetheless, he said, officials in

the department think "some kind of special area status" makes sense and said the issue will continue to be discussed.

Tony Dawson, an Anchorage wildlife photographer who has helped form the group Friends of McNeil River, was among a large group of citizens and government officials who met on the issue Friday. He said he was disappointed the state wasn't doing more.

"They seem to think (placing restrictions on the land)

is moving too fast... To us, it's not moving fast enough," Dawson said. "Nobody's offering any hope of canceling the project and no protection is likely to be in place" until at least next year.

Schneider, meanwhile, said he thought Fish and Game officials shared the same concerns of the McNeil River group.

"The uncertainty is what's the best thing to do about it," he said.

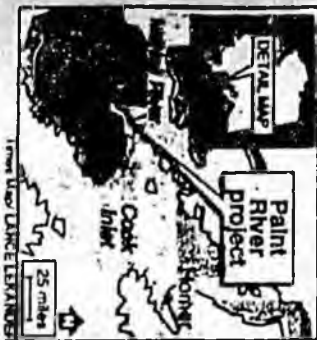
Fish ladder plan spurs interest in bear sanctuary

By DAVID FUTCH

4-10-91

TIMES WRITER

The fear of a brown bear massacre by hunters along the Paint River has led House Speaker Ben Grussendorf to devise a plan to include that stream within the boundaries of the McNeil River State Game Sanctuary.



Grussendorf said Tuesday he expects to introduce a bill ensuring that if a proposed \$2.8 million Paint River fish ladder is built, bears attracted there by migrating salmon will not be killed by hunters.

Currently the Paint River drainage area three miles north of McNeil River does not protect bears from human intrusion, hunting or fishing because the land is designated as state land and not sanctuary for animals.

Friends of McNeil River, a group that opposes construction of the fish ladder, said without sanctuary status, people could fish there, causing potentially disastrous confrontations with bears. Each year hundreds of people make the trek to view as many as 65 bears at a time feeding on salmon at McNeil River. The river flows to McNeil Cove, 34 miles southwest of Augustine Island in the Aleutian Range.

The Paint River fish ladder is a state, federal and Cook Inlet Aquaculture Association project. See River, page B5

River

Continued from page B1

signed to create another breeding ground for salmon by giving them a way to negotiate the 35-foot high Paint River Falls.

Hunting guide Mike DeNeut predicts a bear massacre unless the Paint River area becomes part of the McNeil River sanctuary.

DeNeut, who has 20 years guiding experience in the nearby Iliamna drainage area, said any designation other than sanctuary status would allow hunters to kill bears at Paint River.

"If you include it as part of McNeil, guides will

stay away because they know the government will almost send them to the electric chair for hunting in the sanctuary," DeNeut said. "I know the mentality of a lot of guides and they can't wait for that ladder to go in."

Grussendorf, D-Sitka, said he decided to propose legislation to include Paint River in the McNeil Sanctuary to give bears priority status and protect them.

The state wants the fish ladder built but does not want to see bears an easy target to hunters.

Friends of McNeil River said the ladder would create a mother lode of salmon at Paint River and divert older and younger bears unable to compete at McNeil River to the Paint River where bears currently do not congregate.

"Bears are not stupid. They take the easy way in or out," Grussendorf said. "The Paint River could

become another place where people go to look at bears. When people think of Alaska they think of that magnificent animal. Alaska wouldn't be Alaska without that brown bear."

Tony and Kathy Dawson with Friends of McNeil River have been fighting the ladder but understand political realities will demand the ladder be built. They said they are pleased to see legislation is being put forth to include the Paint River as part of McNeil River Sanctuary. They added they hope the Paint River gets sanctuary status before it's too late.

Tony Dawson said the ladder may not be completed in time for salmon to make a run up the Paint River this summer but it will be by next summer.

If a couple of seasons pass without the Paint River receiving sanctuary status, then the McNeil

River bears could end up on the wrong end of a gun, Dawson said.

"What should have been done is give this area sanctuary status before the ladder is built," he said. "The other point is there are a lot of people tapping their pencils and shaking their heads that six weeks ago weren't doing anything."

Tom Walker, a Cook Inlet Aquaculture planner, said his group has no problem with naming the Paint River part of McNeil Sanctuary.

He said he hopes language in the bill allows for limited activity on the Paint River so Cook Inlet Aquaculture can check on what happens to the salmon migrating up the Paint River.

"Our area of interest is the salmon," Walker said. "I wouldn't hazard a recommendation as to what is good or bad for bears."



Times photo by BILL SHERWONIT



Photo by LARRY AUMILLER

STATE'S BIOLOGISTS AGREE McNEIL'S BEARS NEED ADDITIONAL PROTECTION

4-14-91

Since being assigned to McNeil River State Game Sanctuary in 1976, Larry Aumiller has become the world's leading expert on McNeil's annual gathering of brown bears. Some colleagues within the Department of Fish and Game say the 46-year-old state wildlife technician understands *Ursus arctos* better than anyone, anywhere.

Through his close contact with McNeil's bears, Aumiller has developed ties with the animals that most people might consider a little strange. He's learned to distinguish individual animals and, if asked, will discuss their different personalities and behavioral traits. He's even named many of the regulars who fish for salmon at McNeil Falls year after year. There's Teddy. Chaser. Weird. And Flashman, Groucho and Melody. Just to name a few.

In a sense, the bears have become Aumiller's family. His concern for them, both collectively and individually, is clear.

It's equally clear that the sanctuary and its summertime residents have helped to shape Aumiller's life over the past 15 years. He, in turn, has helped thousands of sanctuary visitors see first-hand that bears are not the bloodthirsty, unpredictable killers that they're often made out to be, while demonstrating that humans and bears can indeed peacefully co-exist "if you do the right things."

Aumiller's unique connection with McNeil's bears naturally makes him sensitive to anything that might jeopardize the sanctuary's values. Long before anyone else, he recognized that a proposed fisheries-development project at nearby Paint River would inevitably affect the sanctuary and possibly do it significant harm. He expressed his concerns.

For years, no one listened. Or at least no one in a position of authority acted on his concerns.

Sometime within the past year, things began to change. Dramatically. As reported by the media, nearly everyone in



See Sherwonit, page F2

Sherwonit

Continued from page F1

the Division of Wildlife Conservation's Southcentral Region office now agrees that the creation of a Paint River commercial salmon fishery will, in all likelihood, compromise the sanctuary's values unless additional measures are taken to protect McNeil's bears.

This transformation is wonderful. But the timing is lousy. The Paint River fish-ladder project is, by all accounts, a done deal.

Once the ladder is in place, a commercial fishery is bound to follow. Experts with the Cook Inlet Aquaculture Association and state Commercial Fish Division estimate the Paint River system, when stocked, could eventually produce an annual return of 1.5 million salmon or more. According to a 1990 draft report by the Department of Fish and Game, there's a strong possibility that such salmon returns "will profoundly affect bear distribution, abundance and behavior" in the McNeil region.

Aumiller hesitates to comment on the McNeil-Paint River debate, because the controversy puts him in an awkward position. Understanding the sensitive nature of departmental politics, he's largely content to stay in the background.

During an interview, his comments are carefully weighed. "It makes me really encouraged," he says, "to see everyone else (in the division) so concerned about McNeil. Even the mainstream biologists, who traditionally deal with populations, not individual animals, are saying this area needs to be managed differently than others."

Others are not quite so hesitant to comment. Sterling Miller, a state bear biologist who probably fits the "mainstream" category, has admitted, "Frankly, I think we (in the Division of Wildlife Conservation) were blindsided by this. For a long time, only Larry took Paint River seriously. But now almost everyone agrees that Paint River will have an impact on McNeil, so additional protection is needed. I've never seen people within the division so unified on an issue."

That unity was demonstrated earlier this month, at a meeting hosted by the Division of Wildlife Conservation (DWC). The two dozen or so people present represented a wide array of concerned parties: Fish and Game, the Department of Natural Resources, National Park Service, U.S. Fish and Wildlife Service, U.S. Department of Commerce, several environmental organizations and a group known as "Friends of McNeil."

John Schoen, a state conservation biologist, told those in attendance, "This meeting should have happened two years ago. It's unfortunate we couldn't have done something to protect the sanctuary before (the Paint River fish-ladder project was approved). But now we need to do as much as possible in the time remaining."

Karl Schneider, DWC's acting supervisor for the Southcentral Region, was equally candid: "People often call McNeil a world-class attraction, but I think it goes even beyond that. McNeil is unique. It's the standard by which other wildlife-viewing areas are measured."

The division's primary management objective — at least at the regional level — for the Kamishak Bay region is to preserve the values that currently exist at McNeil. And the best way to do that, given the circumstances, is to extend the existing sanctuary so it includes the Paint River drainage."

In their search for solutions, it appears that Schneider, Aumiller and others concerned about

McNeil have gained a couple of powerful allies.

The Cook Inlet Seiners Association — whose members will directly benefit from any Paint River fisheries development — has expressed its written support of any land status "that best protects the wildlife and habitat of Paint River lands," so long as it doesn't interfere with the creation of a new commercial salmon fishery. And House Speaker Ben Grussendorf of Sitka said last week that he'll introduce a bill to give McNeil additional protection if the Paint River fish ladder is built.

Still, even the most optimistic McNeil supporters doubt that such legislation will pass this session. And its fate in future years is anybody's guess. As Alan Phipps of the Alaska Center for the Environment has cautioned, "I haven't seen any evidence that the Department of Natural Resources (which manages the land in and around Paint River) supports an extension of the sanctuary. DNR's support is critical. And what about administration support?"

No one at Fish and Game will publicly explain what happened, but widely circulating rumors suggest that deputy commissioner Ron Somerville was the person responsible for the department's "change of heart."

On Friday, Rosier said, "We haven't taken a position at this time. There are a lot of issues that need to be discussed and resolved before we make any final decisions."

Although he noted, "We're on top of things here," Rosier surprisingly added that he hadn't talked with any DWC staff in Anchorage, nor had anyone in the division expressed concerns that the Paint River project will likely affect McNeil sanctuary.

The lack of progress has especially frustrated and angered the group Friends of McNeil, which was formed in 1990 to act as an advocate for the sanctuary and its bears.

"Nothing has changed since our first meeting with Fish and Game several weeks ago," says Friends spokesman Tony Dawson, a professional wildlife photographer who lives in Anchorage. "We see the Paint River project as a direct threat to McNeil."

For now, at least, the issue remains in limbo. Will there be a lawsuit? Will the ladder construction be put on hold? Will Fish and Game, DNR and Gov. Walter Hickel support a sanctuary expansion? Will the state risk its world-class bear-viewing area in order to establish a multi-million-dollar commercial fishery, at a time when there's already a glut of salmon on the market?

The answer seems so obvious. Build the fish ladder, but do what's necessary to protect McNeil's bears. Even those who initially opposed the Paint River project now agree it's not necessarily a bad thing, if additional safeguards are provided.

"I think we (Friends of McNeil) are perceived by commercial fishing interests as project killers," Dawson says. "Initially that may have been where we were coming from. Our thinking was, 'Why tinker with a system that's working well?' But we recognize the political realities, so we've modified our stance somewhat. Our main priority is to protect the bears."

Those who know the sanctuary best — and that includes Friends of McNeil as well as state biologists and wildlife managers — are in agreement: The sanctuary must be expanded to best protect the bears from any Paint River development, preferably before any construction on the fish ladder has begun.

Now if only the decision-makers in Juneau will act — quickly — to preserve a unique Alaskan treasure.



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Continued I

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WHAT'S HAPPENING IN A

Archers slate Spring Fever shoots

The Cook Inlet Archers have scheduled two Spring Fever Shoots for Sunday, April 21, and Saturday, April 27, at the Isaac Walton range in Chugiak. Registration starts at 9 a.m. and shoots

• A child's bird feeder, to be given by the Anchorage Audubon Society at 3 p.m.

• A flower plant drying press, to be given by REI staff at 3 p.m.

Children wishing to participate in the clinics must be pre-registered and pick up a materials

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State is The

Friends can't wait, join in lawsuit

4-18-91 Times

Tony Dawson and other Friends of McNeil River didn't want to go to court.

Members of the Friends group waited patiently for several weeks, hoping that state officials would do the right thing: expand McNeil River State Game Sanctuary to protect McNeil's unique gathering of bears from planned fisheries development at nearby Paint River.

Their plea was simple and logical: do something to protect McNeil's bears before construction of a fish ladder begins this spring.

Despite recent support from the state's Division of Wildlife Conservation, Dawson and Friends were frustrated by the mixed messages being sent from Juneau.

Unwilling to gamble that sufficient protective measures would eventually be enacted, the group chose to join four other environmental groups (The Wilderness Society, National Wildlife Federation, Alaska Chapter of the Sierra Club and Alaska Wildlife Alliance) in a lawsuit that seeks to block construction of the Paint River fish ladder until an appropriate environmental assessment is completed.

"The options seem pretty clear to us," says Dawson. "Either the land around Paint River is given some sort of special status to control human access and activities, or the fish don't go up the ladder."

"The worst-case scenario for us would be for development to occur and have no added protection for the bears. There's been no progress on this issue since our first meeting with Fish and Game this winter. Something has to be done, so we finally decided to take some action ourselves. This at least buys us some time, while protective measures are being considered (by the state)."

Dawson and other parties involved in the court action understand the risk they're taking. The suit could alienate potential allies, such as commercial fishermen who've publicly supported an expansion of McNeil sanctuary.

"I hope we don't end up burning some bridges," he says. "We're not anti-commercial fishing, or anti-hunting. But our No. 1 concern at this point is the sanctuary and the safety of McNeil's bears. As it stands, the project is ill-conceived and poorly studied. We'd be taking a bigger risk by doing nothing."

Jack Hession, the Sierra Club's Alaska representative, further explains, "The whole process has been flawed. An environmental analysis should have been done before any decision was made to allow the fish ladder. This is like putting the cart before the horse; we're being asked to acquiesce to the fish ladder and then worry about protective measures. Logically you should hold off on the project until it's shown that the ladder is compatible with the continued well-being of bears at McNeil and Katmai National Park."

Which raises an intriguing — and so far unanswered — question: how did the Paint River fisheries enhancement project ever get approved without adequate environmental impact studies?

The lawsuit filed Tuesday in U.S. District Court specifically points fingers at the Army Corps of Engineers, which issued the necessary permit to begin fish-ladder construction, and at the Department of Commerce's Economic Development Administration (EDA), which has provided \$1 million in funding.

But other government agencies, both federal and state, also failed to adequately address the project's potential impacts.

Representatives of the Alaska Department of Fish and Game, U.S. Fish and Wildlife Service and National Park Service have all expressed concerns about the

Paint River fish-ladder project. Yet they've only done so in recent weeks, long after the fish-ladder project was approved.

"The EDA should have done a better job of contacting the appropriate agencies when it evaluated the project," says Bill Lawrence, chief of the Park Service's Environmental Compliance Division for Alaska.

"If a there's a permit application or funding request for development activities near a national park, we normally comment. But we have no record of even having reviewed the darn thing (at Paint River), even though it could have significant impact on Katmai's bear population."

"But I don't want to point fingers only at EDA," Lawrence adds. "We should have done a better job ourselves. We missed the boat as well."

Another agency that "missed the boat" is Fish and Game.

As far back as Dec. 1, 1981, in its McNeil River Brown Bear Management Plan, the department noted that salmon-enhancement projects were planned for drainages north of the sanctuary. In regard to those projects, the plan stated, "The availability of salmon in other systems may also reduce the concentration of bears at McNeil River Falls, and bear-human conflicts at fisheries installations could result in destruction of bears."

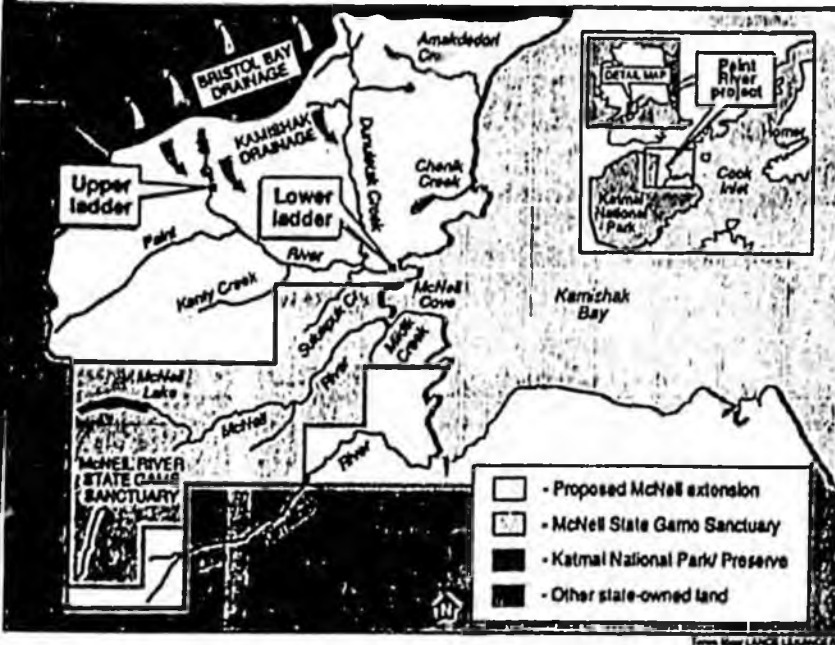
More recently, in a 1990 report, the department indicated there's a "strong possibility" that salmon returns to Paint River (which after construction of the fish ladder and stocking could number more than 1.5 million fish) "will profoundly affect bear distribution, abundance and behavior" in the McNeil region.

Yet when asked to comment on the Paint River fish ladder in 1988, the Department of Fish and Game expressed no concerns about the project's possible impacts on the sanctuary or its bear population. (Its only stipulations were that the fish ladder, associated construction camps and food-storage areas be "bear proof" and that workers attend a workshop on bear-human interactions.)

No one in Fish and Game's Division of Wildlife Conservation has been able to explain what went wrong. But DWC clearly goofed. To quote again from the McNeil management plan, the state is mandated "To protect, maintain, and enhance the brown bear population in concert with other components of the ecosystem and thereby assure its capability of providing sustained opportunities to view and photograph brown bears and, secondarily, for scientific and educational study of brown bears."

Since state and federal agencies have so far been unable or unwilling to rectify their mistakes, Friends of McNeil and other concerned groups are doing what they can to protect the sanctuary's unique gathering of bears. For now, that means taking their case to court.

The Anchorage Times
Wednesday, April 17, 1991



Environmentalists sue to protect McNeil bears

By DESIREE HUMPHREY

TIMES WRITER

Five environmental groups sued the federal government Tuesday seeking to block construction of a Paint River fish ladder they say will lead to trouble for bears in the nearby McNeil River State Game Sanctuary.

The Friends of McNeil River and four other environmental groups said impact studies required by federal law were not done before funding and permits were issued for the \$2.8 million project. The project is designed to create a breeding ground and foundation for a major salmon fishery at Paint River.

The groups want a federal judge to stop the project and block its funding until the

completion of studies on the impact of increased human activity in the area and the possibility of adverse encounters between man and bear. The suit was filed in Anchorage federal court.

The federal government has allocated \$1 million to Cook Inlet Aquaculture Association for the project, expected to be completed this summer, the suit said. The association is a private, non-profit group working with the Alaska Department of Fish and Game to start the new fishery.

The fish ladder would be built at the mouth of Paint River, about three miles away from McNeil Falls where bears feed during summer salmon runs, the suit said. The appearance of new fish elsewhere would

draw bears away from the sanctuary viewing area, the suit said.

"The introduction of fish at Paint River is also expected to attract large numbers of sport and commercial users including hunters, fishermen, boaters and other recreational users," the suit said. "Historically large numbers of bears in areas of lots of human activity means lots of trouble."

Tom Mears, executive director for the aquaculture association, said Tuesday the concerns of the environmental groups have been addressed in the fish-ladder plan.

For example, a protective grating will be installed to keep bears from falling in and drowning, he said. In addition, a permanent electric fence will be built.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

April 29, 1991

The Honorable Cliff Davidson, Chair
House Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Davidson:

Subject: HB 306, which establishes the McNeil River State Game Refuge and adds areas to the McNeil River State Game Sanctuary, to protect brown bears from the possible adverse effects of the Paint River fish ladder.

Position: The Department of Natural Resources supports this bill, subject to clarifying amendments concerning submerged lands and allowable refuge and sanctuary activities.

Background: This bill will provide protection for brown bears that migrate to the Paint River area to feed on salmon from a planned salmon enhancement project. The bill will also manage human use of the area to avoid situations that endanger humans or bears.

The area proposed for refuge and sanctuary status is located approximately 100 miles southwest of Homer, on the west side of Cook Inlet. The Cook Inlet Aquaculture Association will receive approximately \$1 million from the federal government for a fish ladder at the mouth of Paint River, about three miles from the McNeil River Falls. The area will be stocked with salmon and may divert bears from the McNeil River area.

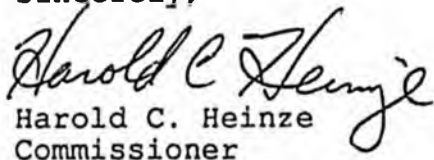
Recommendation: The bill includes state tidelands within its boundaries but is silent with respect to submerged lands. An amendment to clarify the status of state submerged lands in the area is recommended.

We also recommend amending sections 1(d) and 2(d) of this bill, which currently would prevent the departments of Natural Resources and Fish and Game from selling or leasing state land within the sanctuary and refuge. As written, the bill precludes sales or leases for fish enhancement projects, bear viewing areas, or concessions/lodges, even if these projects are considered appropriate to meet the goals and objectives of the sanctuary or refuge. To correct this situation, add "unless the goals and objectives for which the refuge is established are met" after the word "Refuge" on line 6, page 3 of the bill. If appropriate, add the same phrase to line 12, page 4 of the bill, after the word

"Sanctuary".

Please let me know if you have questions about this matter.

Sincerely,


Harold C. Heinze
Commissioner

cc: Committee Members
Representative Grussendorf
Bruce Kendall, Legislative Liaison, Office of the Governor
Carl Rosier, Commissioner, Department of Fish and Game

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 306

Revision Date: _____ Department Affected: Natural Resources
 Title: McNeil River State Game BRU: Land & Water Management
Refuge Components: Land & Water Management
 Sponsor: Representative Grussendorf
 Requestor: House Resources COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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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	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact: None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Janet Burleson Phone: 465-3400
 Division: Land & Water Management Date: 30-Apr-91

Approved by Commissioner: Harold Heinze Date: 30-Apr-91
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB,
& Impacted Agency(ies).

DEPARTMENT OF FISH AND GAME POSITION PAPER

Bill No: House Bill 306

Sponsor: Representative Grussendorf

Division: Habitat

Bill Title: An Act relating to establishing the McNeil River State Game Refuge and altering the McNeil River State Game Sanctuary; and providing for an effective date.

Department Position: Support if amended

The department supports the establishment of a new McNeil River State Game Refuge and Sanctuary which would (1) provide permanent protection for brown bears and other fish and wildlife and their habitat; (2) establish a statutory basis for management of refuge lands and uses; and (3) provide opportunities for wildlife viewing, fisheries enhancement, hunting, fishing and trapping, and other compatible uses. However, there are several sections of the bill which conflict with existing statutes and procedures, or which must be amended to fully meet refuge and sanctuary purposes and obtain ADF&G support. These are:

Page 3, lines 3 and 4

- 1) Delete Section AS 16.20.041 (c) which prohibits hunting of brown bears in the new refuge. The Board of Game is established to regulate bear population management and harvest. This decision should be left up to the boards who will weigh all of the scientific information and make a decision. There will be no fish returning to the Paint River for several years and the issue of hunting in refuges will be before the Board of Game this fall.

Page 3, lines 5 and 6

- 2) Rewrite AS 16.20.041 (d) to read "The department and the Department of Natural Resources may not enter into sales or leases of land or water within the McNeil River State Game Refuge except that leases may be allowed if determined to be necessary to meet the purpose for which the area is established. The land and water areas of the McNeil River State Game Refuge are closed to mineral entry under AS 38.05.185 - 38.05.275". Some leases may be necessary to meet the purpose for which the area is established. Mineral entry closure is necessary to achieve the original intent of the bill since mineral entry is non-discretionary and the state has no control over where an entryman might select mineral lands. This could create conflicts between refuge and public use values and mineral development.

Page 3, lines 7, 8, 9

- 3) Delete AS 16.20.041(e). This subsection conflicts with

House Bill 306 Position Paper Continuation Page

existing refuge statutes 16.20.050 - .060, under which the Commissioner of Fish and Game reviews and regulates activities in State Game Refuges.

Page 3, line 10

- 4) Change Section 2 to read : "AS 16.20.170 is repealed and reenacted to read:" It is necessary to establish McNeil River State Game Sanctuary under AS 16.20.170 not AS 16.20.161 in order to reaffirm the Department of Fish and Game's authority to manage uses and activities in McNeil River State Game Sanctuary as currently implemented in regulation.

Page 4, line 10

- 5) Delete subsection 16.20.161 (c) which prohibits hunting and trapping within the McNeil River State Game Sanctuary. Bear population management is most responsively dealt with through the Board of Game's regulatory process rather than in statute. The Boards have already closed the existing McNeil River Sanctuary to brown bear hunting to avoid conflicts with unique sanctuary values. This is consistent with the state's position that the boards regulate fish and wildlife harvest in federal conservation units, in lieu of outright federal closures.

Page 4, lines 11 and 12

- 7) Rewrite AS 16.20.161 (d) to read "The department and the Department of Natural Resources may not enter into sales or leases of land or water within the McNeil River State Game Sanctuary except that leases may be allowed if determined to be necessary to meet the purpose for which the area is established. The land and water areas of the McNeil River State Game Sanctuary are closed to mineral entry under AS 38.05.185 - 38.05.275". Some leases may be necessary to meet the purpose for which the area was established. Mineral entry closures are necessary to achieve the original intent of the bill since mineral entry is non-discretionary and the state has no control over where an entryman might select mineral lands. This could create conflicts between sanctuary and public use values and mineral development.

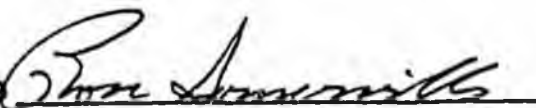
Page 4, lines 13, 14, 15

- 8) Amend subsection AS 16.20.161 (e) to read: "The boards may adopt regulations governing access, entry, development, construction, hunting, trapping, fishing, and other uses and activities affecting the natural habitat, fish and wildlife and public use of the McNeil River State Game Sanctuary"

Page 4, line 16

- 9) Delete repeal of 16.20.170.

Commissioner's Signature



Date

5/1/91

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 306

Revision Date: 5-1-91 Department Affected: Fish and Game

Title: McNeil River State Game Refuge BRU: Wildlife Conservation

Component: Wildlife Conservation

Sponsor: Representative Grussendorf

Requestor: _____ COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	26.0	26.0	26.0	26.0
TRAVEL	0	4.0	4.0	4.0	4.0	4.0
CONTRACTUAL	0	0	10.0	10.0	10.0	10.0
SUPPLIES	0	1.0	4.0	4.0	4.0	4.0
EQUIPMENT	0	0	8.9	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	5.0	52.9	44.0	44.0	44.0

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	5.0	52.9	44.0	44.0	44.0
FEDERAL FUNDS						
OTHER						
TOTAL	0	5.0	52.9	44.0	44.0	44.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	2	2	2	2
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: no impact on current year

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Dave Kellehouse, Director Phone: 465-4190

Division: Division of Wildlife Conservation Date: 5/01/91

Approved by Commissioner: *Paul Sorenson*

Agency: Department of Fish and Game Date: 5/1/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

House Bill 306 Fiscal Note Continuation Page

The following estimated expenditures are based on assumptions that the Paint River project will be constructed as scheduled, and salmon begin returning to the system in summer 1994.

The department anticipates that 2 permanent seasonal staff will be stationed in a remote camp, and will survey the Paint River to document salmon distribution and use, as well as bear distribution and their use of salmon over time. The department will also conduct aerial surveys during salmon migration and spawning periods to further document bear distribution and habitat use.

As the salmon runs become established, the seasonal staff may be required to meet user groups, and provide guidelines regarding appropriate human behavior in the area.

Personal services - includes 4 months each of WTIV and WTIII (Anchorage 13C & 11 A respectively).

Travel - includes air travel of staff to and from field.

Contractual - includes air charter support for re-supply of field crew and aerial surveys. One survey per week -10 weeks June 1 through August 15.

Supplies - includes annual operating supplies for staff and camp.

Equipment - includes initial purchase of inflatable boat with motor, communications equipment, weapons and field tents.



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA 99669
PHONE (907) 262-4441

DON GILMAN
MAYOR

April 30, 1991

Rep. Ben Grussendorf
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Rep. ~~Grussendorf~~ *Ben*:

I am writing in support of HB 306 and your efforts in finding an amicable solution to the current dilemma surrounding the Paint River fishery enhancement project and the protection of the brown bear and other fish and wildlife populations and habitats in the McNeil River area.

It is my understanding that a lawsuit has been filed against the U.S. Corps of Engineers over the Paint River project by a number of organizations who are interested in preserving the integrity of the McNeil River brown bear habitat. It is also my understanding that this pending lawsuit could potentially have a detrimental effect on the federal funding allocated to this project.

Both the development of the Paint River project and the protection of the wildlife in the McNeil River area are important to the well being of this region of the State. While the Borough Assembly has not had the opportunity to take a position on this issue, I believe I can speak for both the administration and the Assembly in saying we strongly support your efforts in finding a solution so that the Paint River fishery enhancement project may proceed, while at the same time protecting the fish and wildlife in the McNeil River area.

Sincerely,

Don Gilman,
Borough Mayor



RAINBOW KING LODGE, INC.

DATE: 4/30/91

TO: Representative Grussendorf and
Members of the House Resources Committee
FAX: 907 465-4565
RE: HB306
FROM: Parker J. Woods
Rainbow King Lodge, Inc.
FAX: 503 638-3630

MESSAGE:

Dear sirs:

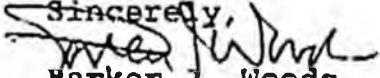
I am unable to attend the May 1st, 1991 meeting in person or via teleconference and I wish to offer the following comment on HB306:

HB306 would enlarge the current boundaries of McNeil River State Game Sanctuary to include the Kamishak and Little Kamishak Rivers which are currently used by several sports fishing lodges in the Iliamna/Bristol Bay area. By regulation, there is no fishing allowed in the McNeil River State Game Sanctuary and no specific provision in HB306 to provide for uses currently being allowed. In its present form, HB306 would effectively close both the Kamishak and Little Kamishak Rivers and have a substantial adverse effect on our operation as well as the other lodges utilizing the area.

I would specifically like to recommend;

1. That the Kamishak and Little Kamishak River drainages be deleted from this bill; or
2. That this bill contain a provision that allows for the continued use of this area for sports fishing purposes.

Please feel free to contact me at (800) 458-6539 for further details.

Sincerely,

 Parker J. Woods
 President
 Rainbow King Lodge, Inc.

cc: Iliaska Lodge
Fishing Unlimited
Talarik Creek Lodge
Valhalla Lodge
Fox Bay Lodge

Point Adventure Lodge
Bud Hodson
Iliamna Lake Resort
Newhalen River Lodge



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Alaska Center for the Environment

519 West 8th Avenue, Suite 201 • Anchorage, Alaska 99501 • (907) 274-3621

March 4, 1992

Rep. Cliff Davidson
Chair, House Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: House Bills 353, 354, 355

Dear Representative Davidson:

I am sorry that my trip out of state has prevented me from writing earlier to express our strong support for House Bills 353, 354, and 355, and sorry also that this letter will have to be so brief. Please do not think that we are not very interested in this issue.

These bills would provide for the collection of instream flow data, the efficient management of such data and, last but certainly not least, the protection of important Alaskan fish and wildlife habitats and populations through the reservation of necessary instream flows. Protecting adequate instream flows is essential if we are to maintain the fish and wildlife values that so many of us rely on or enjoy for a variety of direct economic and other equally important reasons.

It is unfortunate that we have yet to achieve these goals after several years of effort. Perhaps we think that our water resources are so abundant that there is no urgent need to enact legislation of this sort. If so, that is an unfortunate and ultimately destructive attitude. We have the chance in Alaska--and I'm sure many other states are extremely envious--to shut the barn door before rather than after the horses have escaped. Protecting resources before they're lost or threatened is not only far more effective but far cheaper as well.

It has been said in the past, to some effect unfortunately, that Alaska doesn't need these bills because it already has the best instream flow legislation in the country. The truth is that that says a great deal more about the sorry state of water resource protection elsewhere than about the real merits of Alaska's existing law.

While it's true that Alaska does have a procedure for the reservation of instream flows, it is cumbersome, expensive and inequitable. It takes so long, and costs so much, to successfully obtain an instream reservation that since 1980 only 11 such reservations have been granted out of 46 applications, all or nearly all of those successes having been achieved by the Department of Fish and Game as a result of a substantial

Sponsor statement
House Bill 353 by Representative Davidson

HB 353: "An Act making an appropriation to the Department of Natural Resources for completion of water appropriation data automation and update; and providing for an effective date."

The purpose of this legislation is to enable the Department of Natural Resources, as the state's manager of our water resources, to complete automation and updating of its water appropriation data base identified as the STORET system. HB 353 would appropriate \$239,400 from the general fund to Department of Natural Resources for completion of this important project.

The STORET system was started in the early 1980's, but funding was later discontinued and the project was never completed. The project was 50% complete when funding ran out. In order to gain any benefit for funds already expended to date, the project should be finished.

HB 353 would appropriate these long needed funds. The Water Resources Board (the citizens' advisory board appointed by the Governor to advise him on water policy issues) has passed resolutions requesting funding for several years. In addition, completion of this project is of high public value and important to all users of water data information.

Currently, the Department has a computer filing system, the Land Administration System (LAS), to store information from water rights casefiles. However, water rights information can only be retrieved for single points on rivers or streams on the LAS, not for a stretch of river. The STORET system will allow information to be stored for segments of rivers. It will enable DNR, who is responsible for administering, monitoring, and adjudicating water use in Alaska, to monitor the cumulative effects of multiple appropriations on the same stream system and will facilitate the identification and availability of unappropriated water.

I ask your support in funding the automation and update of of this water appropriation data base, which every state in the Union now maintains except Alaska. The use of water is indispensable to all industry in Alaska, and its management crucial to viability of Alaska's health, welfare and economy.