

ALASKA WATER RESOURCES BOARD
323 E. Fourth Avenue
Anchorage, AK. 99501

March 14, 1980

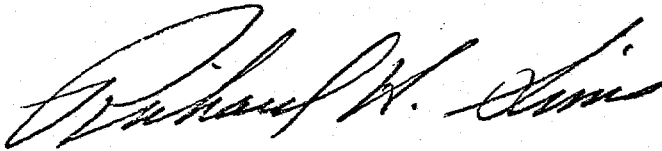
Honorable Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor:

At its March 11-12, 1980 meeting in Juneau the board heard testimony and discussed several pieces of pending legislation. Attached are the Board's recommendations on HB 186, HB 118, SSHB 779, and SB 395.. Because of the possibility of imminent mark-up of some of these bills, by copy of this letter I am transmitting the Board's recommendations to members of the House Resources Committee.

We would be happy to elaborate on our position regarding this legislation. We feel all four bills are very important and we support their passage with the changes we have recommended.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard H. Sims".

Richard H. Sims, Chairman

cc: Representative Miles
Representative Osterback
Representative Zharoff
Representative Carney
Representative Cotten
Representative Fuller
Representative Chatterton
Representative Eliason
Representative Halford

ALASKA WATER RESOURCES BOARD

March 1980

Resolution 80-1

Whereas HB 118 introduced in the Eleventh Legislature proposes changes in the Water Use Act that would allow the inclusion of maintenance of instream flow and water level under the provisions of the Water Use Act; and

Whereas in Alaska the maintenance of instream flows and water levels is important to navigation, fish and wildlife habitat, recreation and other beneficial uses of streams, rivers and lakes; and

Whereas the present statute governing water rights, the Water Use Act, AS 46.15, presently states that a diversion, impoundment or withdrawal is a prerequisite for a use of water to be considered an appropriation and maintenance of instream flows and water levels does not meet this prerequisite; and

Whereas instream flows and water levels are presently being reserved under procedures that are distinct from the Water Use Act, creating reservations that have no standing in time within the water rights system, resulting in duplication and conflicts in water management efforts and delays in resolving conflicts and may not be enforceable in problem situations; and

Whereas the federal government may assert water rights in federal court when no state procedures exist for quantification of federal water rights; and

Whereas the lack of state procedure for allocation of stream flows and water levels is the only area in existing state statutes where the federal government does not come under state procedures for the allocation of claimed "non-reserved" federal water rights; and

Whereas state rules for the adjudication of water use are preferable to federal court action on such issues; and

Whereas the provision in HB 118 resolve these problems and streamline the state's water management system; and

Whereas HB 118 is a necessary companion bill to effect implementation of HB 953.

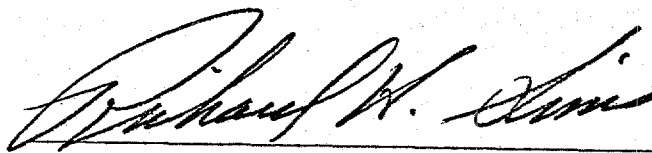
Now therefore be it resolved that the Alaska Water Resources Board recommends passage of HB 118 with the following changes:

page 1. line 16 add "," after subdivision, delete "or" and add
after state "or agency of the United States."

page 1. line 23 add "and other beneficial uses" and most
importantly

page 2. line 1 delete "exists" and insert "is demonstrated"

Dated this 14th day of March, 1980

A handwritten signature in cursive script, reading "Richard H. Sims", written over a horizontal line.

Richard H. Sims, Chairman

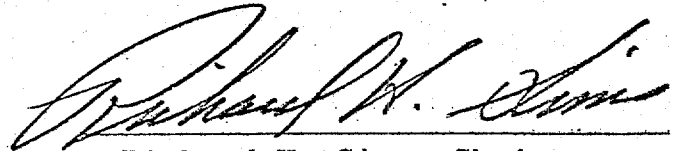
Alaska Water Resources Board
Resolution 80-2

Whereas a DNR substitute for HB 186 proposed in the Eleventh Legislature, second session proposes changes in the Water Use Act that will make it compatible with and a necessary companion to HB 779, the Geothermal Resources Act; and

Whereas HB 186 also proposes housekeeping amendments to the Water Use Act which will streamline and improve the efficiency of water rights processing in Alaska;

No therefore be it resolved that the Alaska Water Resources Board recommends passage of the DNR substitute HB 186 with the provision that in section 46.15.120, "correlative rights" be changed to "leasehold rights" since allocation of correlative rights would involve more than one leaseholder and since even a single geothermal leaseholder may need protection against later depletion of geothermal medium by subsequent water users.

Dated this 14 th day of March, 1980.

A handwritten signature in dark ink, appearing to read 'Richard H. Sims', is written over a horizontal line.

Richard H. Sims, Chairman

Alaska Water Resources Board
Resolution 80-3

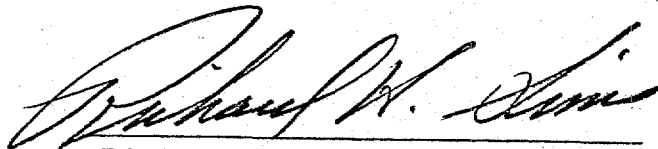
Whereas SSHB 779 introduced in the Eleventh Legislature, second session proposes changes in state law concerning development of Alaska's geothermal resources; and

Whereas the existing statutes are unnecessarily long and complex, and do not distinguish between large scale high temperature development and small scale lower temperature uses of geothermal resources and are an impediment to the development of geothermal resources;

Whereas SSHB 779 makes significant improvement in these deficiencies and attempts to remedy potential conflicts between high temperature geothermal development and rights in groundwater use.

Now therefore be it resolved that the Alaska Water Resources Board recommends passage of SSHB 779 in conjunction with Department of Natural Resources proposed substitute for HB 186.

Dated this 14 th day of March, 1980

A handwritten signature in dark ink, appearing to read "Richard H. Sims", written over a horizontal line.

Richard H. Sims, Chairman

Alaska Water Resources Board
Resolution 80-4

Whereas, Senate Bill No. 395 has been introduced to repeal AS 44.80.020 to AS 44.80.050, an act relating to flood control project damages; and

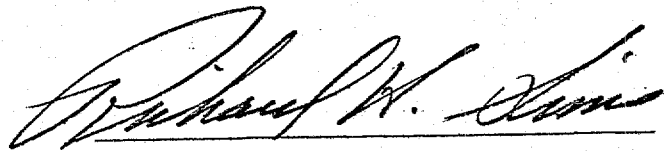
Whereas, the existing legislation provides automatic liability on behalf of the State for any flood control project; and

Whereas, under existing legislation that measure of liability is that of a private party rather than that of the sovereign; and

Whereas, each individual federally funded flood control project requires an acceptance of only federal liability by the State or municipality upon completion.

Therefore be it resolved, that the Alaska State Water Resources Board strongly recommends passage of Senate Bill 395.

Date this 14 th day of March, 1980

A handwritten signature in dark ink, appearing to read "Richard H. Sims", is written over a horizontal line.

Richard H. Sims, Chairman

Alaska Water Resources Board

Resolution 80-5

Whereas the Water Resources Board perceives that the increased value of precious metal has triggered a large influx of inexperienced persons who wish to prospect for those metals through the use of small portable suction dredges; and

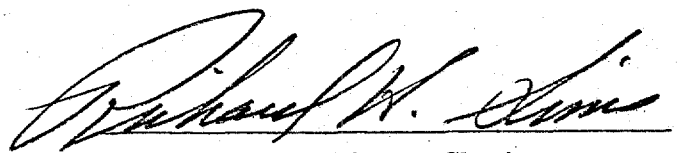
Whereas there is a significant potential for degradation of Alaskan streams through the increased use of small portable suction dredges; and

Whereas the use of portable suction dredge can have great detrimental effect on water quality and the habitat of anadromous fish; and

Whereas the extreme portability of the suction dredge and their use in non-established mineral claims results in great difficulty in preventing damage through stream surveillance.

Now therefore be it resolved that the Department of Environmental Conservation via legislation or regulation adopt a policy of licensing the operators of portable suction dredges on other than established mineral claims as a means of insuring that these operators are aware of the constraints placed on all citizens concerning stream degradation and protection of anadromous fish streams.

Dated this 14th day of March, 1980.

A handwritten signature in dark ink, appearing to read "Richard H. Sims", written in a cursive style.

Richard H. Sims, Chairman