

JAY S. HAMMOND, GOVERNOR

WATER RESOURCES BOARD

323 E. 4TH AVENUE
ANCHORAGE, ALASKA 99501

279-5577

March 24, 1980

Mr. Ted Smith, Director
Alaska Division of Forest,
Land and Water Management
323 E. Fourth Avenue
Anchorage, AK 99501

Dear Ted:

At its March 11-12, 1980 meeting in Juneau, the Water Resources Board had several questions regarding actions taken on its December 1979 resolution (attached) regarding the water rights problem on Ship Creek in Anchorage. The Anchorage members of the Board were aware that the Ship Creek dispute was continuing to have obvious impacts on capital investment decisions being made for Anchorage's water supply. For whatever reasons it appears that the major water users are reluctant to file suit and resolve the issue once and for all.

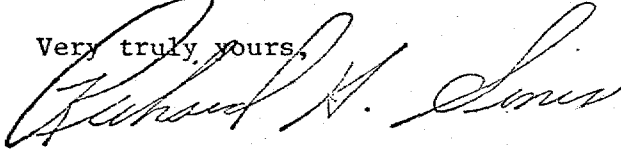
Your staff did report that the Department of Law reviewed possible court proceedings that could solve the problem of unquantified federal reserve water rights in Ship Creek. We understand this could be an action for declaratory judgment that would be similar to a quiet title action. In order to bind the federal government to a quantification of reserved water right, the action must involve a basin-wide adjudication of all water rights in the basin. The DNR staff present could not answer whether your division or department would pursue such action, although it was generally agreed by all that DNR could initiate such a suit and, in fact, may wish to in order to get itself off the hook. The Board recognizes that DNR may have an image problem and/or political problem if it simply walked into court and requested a quiet title action to all the water rights in the Ship Creek basin.

Therefore, we suggest that DNR prepare a one to two page statement of the situation and send it to all Ship Creek basin water users on your records and the Anchorage legislative delegation with the specific inquiry as to whether anyone has any objection to your agency proceeding with a quiet title action. Your inquiry should be phrased in such a way as to avoid lengthy legal dissertations on the part of water users, but discover if they have any objection to your agency taking the situation to court since that's where the issue must ultimately be settled.

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By proceeding in such a manner, you might even generate some support for your agency. Please let us know by June 15, 1980, what action you may have taken on this issue and advise us of any result. We would, of course, be happy to consult with you during such an inquiry and assist where possible.

Very truly yours,

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

Richard H. Sims
Chairman

cc: Governor Jay S. Hammond
Robert E. LeResche, Commissioner, DNR
Avrum Gross, Attorney General