

## MEETING SUMMARY

### ALASKA WATER RESOURCES BOARD MEETING

March 11-13, 1980

The Alaska Water Resources Board meeting in Juneau on March 11-14, 1980. On March 14 the Board met as the 208 Policy Advisory Board. The summary of that day's activities were done separately. This is a summary of the first three days. The members of the Board were:

Charles Johnson, Nome  
LeVake Renshaw, Anchorage  
Peg Tileston, Anchorage  
Richard Sims, (Chairman) Kodiak  
Wayne Westberg, Anchorage  
David Vanderbrink, Homer  
Frederick Boness, Anchorage  
Ernst Mueller (ex-officio) Commissioner of DEC  
Robert LeResche (Executive Secretary) Commissioner of DNR

The Commissioner of DNR was represented by Brent Petrie. DEC was represented by several people during the meeting, including Commissioner Mueller, Deming Cowles, Glenn Akins, Deena Henkins, and Bob Martin.

#### Tuesday, March 11

Chairman Sims called the meeting to order at 8:45. He congratulated Peg Tileston and Fred Boness on being reappointed to the Board. He announced that DEC had given him a schedule of when various DEC representatives would be attending. After one correction (deletion of "per day" on line 5, page 14) the summary of the previous meeting was approved. Richard Sims was reelected Board Chairman for the coming year.

At 9 a.m. Steve Mack of DNR gave a review of pending legislation. Handouts included SSHB 779, the Geothermal Resources Act; SSHB 186, an act relating to the Water Use Act; HB 738 and HB 739, companion bills on the Susitna Hydroelectric Project; and SB 395, an act relating to liability for damages from federal flood control projects.

#### Major points:

- \* The resolutions on legislation passed at the 1979 Juneau meeting were reviewed. HB 186 and HB 118, both of which the Board recommended passage with minor changes, are being considered this year.
- \* New legislation -  
HB 738 & HB 739 appropriate \$4.1 billion for the Susitna Hydroelectric Project.

SB 395 repeals AS 44.80.020-44.80.050 under which the state accepts liability for all federal flood control projects and which set the measure of liability as that of a private person.

SSHB 779, Geothermal Resources Act, simplifies procedures for using geothermal resources. More detailed discussion was deferred until later in the meeting.

- \* SB 395 was introduced as a result of the state review of the Fairbanks Flood Control Project. Since the December Board meeting DNR prepared a summary of the state's review at the request of the Fairbanks North Star Borough Assembly. After public meetings the Borough Assembly passed a resolution supporting the Corps of Engineers' recommended in-river alternative. Yet to come is an EIS and application for a right-of-way from the state. A resolution supporting passage of SB 395 was passed unanimously.

At 10:15 Lloyd Jones of Louisiana Pacific, Ketchikan Division, gave a presentation on the logging industry's concerns with water resources.

- \* A major concern of logging industry is water quality standards. Meeting drinking water quality testing regulations is difficult because of the remote location of camps.
- \* Duplication of effort in acquiring permits is another problem. It is time consuming and appears to be getting worse. During the permit acquisition procedure up to 41 agencies may be contacted.
- Q LeVake Renshaw: How does logging industry view the 208 program? Is it satisfied with the progress of the program?
- A Lloyd Jones: The industry feels it must participate and is satisfied with the progress to date.
- Q Peg Tileston: Would you see an advantage in coordinating public hearings?
- A Lloyd Jones: Any public hearing delays the process. If an action is controversial enough there will be a public hearing.
- Q Why is the permitting process becoming worse?
- A Lloyd Jones: CZM has added another level to the review process.

At 11:05 Bob Martin of DEC reported on the Forest Practices Act subcommittee.

- \* The group is a subcommittee of the Forest Practices Board with representation from DNR, DEC, and DF&G. It is currently drafting regulations for the Forest Practices Act.
- \* Several issues are pre-eminent.
  1. Must regulatory agencies give a five-day notice before inspections? Consensus is no, it should not be required but some form of notice should be practiced.
  2. Are BMP's mandatory or advisory? As currently written they are unenforceable.

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- \* Several issues are pre-eminent.

1. Must regulatory agencies give a five-day notice before inspections? Consensus is no, it should not be required but some form of notice should be practiced.
2. Are BMP's mandatory or advisory? As currently written they are unenforceable.

3. Will State Forester have authority to waive standards? - Yes.
4. Do coordination agreements need to be in regulations? - No, it is agreed that they can be developed outside of regulation.

Q Peg Tileston: Will staff exist to enforce regulations?

A Bob Martin: Staff is short but the intent is to use staff of all agencies in a coordinated effort and avoid duplication of field operations.

Q Is the public guaranteed some action in a specified length of time?

A Bob Martin: Yes

Brent Petrie of DNR next gave a briefing on the status of HB 118, the instream flow bill.

Major points:

- \* It may come up before the House Resources Committee on Wednesday or Thursday and is being related to small hydro legislation.
- \* The wording may be changed to allow the Federal Government and private individuals make reservations. DNR feels this would be a substantial change and does not support it.
- \* Several methods for quantifying instream flow requirements were explained.
- C LeVake Renshaw: The need to quantify will occur when controversy exists. Agencies should be required to go through same procedures as private citizens.
- C Wayne Westberg: Quantification for all rivers in Alaska would be a huge task; there needs to be a mechanism so that quantification only takes place on rivers where conflicts exist.

At this point the Board adjourned for lunch.

At 1:30 Steve Mack of DNR gave a presentation on the FY80 Title III grant application.

Major points:

- \* The FY80 grant notice for a maximum of \$580,000 was not received until late November. The grant application was prepared in a hurry with emphasis on contractual work, training, and equipment. The application has been sent to Washington D.C. and is currently going through A-95 review.

- \* Activities include placer mining, instream flow, regional studies, surface water data collection, flood plain management, special districts, water resources planning coordination, water use data systems, urban-suburban studies, surface water user manual, and watershed planning.
- \* The Water Resources Board is included under water resources planning coordination. \$10,000 is allocated for staff and \$15,000 for contractual. The Board will be kept informed of the grant program and is requested to provide input.
- Q Charles Johnson: Was the regional study for Kotzebue Sound requested by the region or picked by DNR?
- A Kotzebue Sound was designated by the Governor's Office as a high priority planning area. This is the initial regional water planning guide and it was decided to do it for an area in which there was planning interest.
- Q Peg Tileston: Will the Fairbanks area ridge water study allocate any money for water quality testing in Fairbanks? There's no place in Fairbanks to have water quality tested.
- A No, this program will analyze existing data. DEC is trying to stay out of the water testing business because of concern from private labs over the government moving into the private sector.
- C LeVake Renshaw: No private facilities exist because government policy a few years back was that only the government should test water. At one time there were two private labs in Fairbanks.
- C Brent Petrie: This program is meant to augment water resources planning by the state. It is not meant solely for DNR but can be used by any state agency. Any help on priorities that the Board can give will be appreciated.
- Q LeVake Renshaw: Will the state be adding staff for this program or use consulting firms?
- A This year's programs are mostly projects that will be done by consulting firms.
- Q Peg Tileston: Are there priorities if the program is not fully funded?
- A Brent Petrie: The top four are regional studies placer mining, instream flow, and water resource planning coordination.

At 2:45 Bob Speed, administrative assistant to Terry Gardiner, spoke on water resources and energy legislation currently before the legislature.

Major points:

- \* Alaska was one of the states chosen to take part in a National Conference of State Legislatures (NCSL) program on small hydro and geothermal legislation. A committee was formed to work with NCSL to develop legislation. The result of that and other work in the Legislature was a legislative package that included many different types of energy programs and types of energy resources that has the potential for development.
- \* Most of the bills are in the House Resources Committee and will be worked on shortly.
- \* A problem is that energy programs are spread out among agencies. There needs to be better coordination and this is provided for in the energy center bill.
- \* On hydroelectric, NCSL felt Alaska had good existing legislation. All that was needed is fine tuning. The instream flow bill is a companion to the hydro legislation but some question exists as to whether the Legislature will be putting any priority to it.
- \* HB 779 is the bill on geothermal resources that the committee developed with the help of NCSL. HB 186 contains housekeeping amendments to the Water Use Act. Changes in the Water Use Act are necessary to prevent inconsistencies if HB 779 passes.
- \* The work with NCSL is the first year of a two year program. The next priority is the state permitting process.
- C There was considerable discussion on DEC being the lead agency for permitting. DNR has shown some hesitancy in becoming involved.
- Q Peg Tileston: Is HB 954, solar and alternative energy, for demonstration projects?
- A Bob Speed: No, demonstration projects are separate. HB 954 provides for loans to install energy conservation measures and alternative energy systems.

At 4:00 p.m. Bruce Wright of DF&G, Jon Tillinghast of DOL, Glenn Akins of DEC and Brent Petrie of DNR were present to discuss the Trelease report.

Major points:

- \* Bruce Wright

DF&G is supportive of recommendations for a state water planning program, evaluation of state water resources, projection of water use demand and development of uniform policies. Current water management procedures are adequate and responsive to F&G needs but two drawbacks exist: 1) no funding mechanisms and 2) no guarantees that DNR will remain responsive. Enactment of HB 118 will resolve these deficiencies:

On the recommendation for joint issuance of permits, through the activities of the placer mining working group, the three agencies have developed one permit for mining.

\* Glenn Akins

DEC is in general agreement with the recommendations of the report. Progress has been made towards carrying these out. Standards for drilling wells was recommended and these have been developed for construction of public water supply wells. The three agency agreement on placer mining is evidence of the work being done toward better coordination.

\* Brent Petrie

Trelease's recommendations have been the objectives of the water resources planning program in DNR for the past two years. There is no state water plan as recommended by Trelease, rather DNR is approaching this with regional guides and contracts for special projects. The new regulations were partly based on Trelease's recommendations, including well construction standards and improved and tightened permitting procedures.

Coordination has improved. Trelease recommended a commissioner level policy coordination group. The Water Resources Board is filling that role now.

\* Jon Tillinghast

DOL's major relationship to Trelease's recommendations has been helping draft HB 118 and new regulations. DOL is not a lead agency on water resources, thus the recommendations did not directly affect its operations.

Q Has anything been done on the adjudication of Ship Creek water rights?

A Brent Petrie: The Anchorage Office of DOL has looked into procedures and found that a declaratory judgement would be adequate. A problem is getting all the principles together.

Q Dick Sims: Is F&G satisfied with the present level of coordination?

A Bruce Wright: Yes, presently it is adequate, what F&G is concerned about is a change in personnel or attitude. The instream flow bill would be a more permanent solution.

C The cooperative agreement between F&G, DNR, and DEC was discussed at some length using the Rainbow Lakes problem as an example. One of the reasons the problem dragged on so long was that the agencies did not coordinate with each other; that should not happen now. The Rainbow Lakes type problems also might not happen if all water agencies were in the same physical location.



- C The master application and permit information center are new programs designed to help the coordination problem. It still might be easier for small operations to go to agencies for individual permits.
- C Brent Petrie: These are symptoms of a larger problem. Coordination is so difficult because there are so many different agencies with different chains of command. The progress of the past three years has depended upon the good will of the people involved. Consolidation might resolve this.

At 5:30 p.m. the Board adjourned for dinner. At 8:25 p.m. the Board reconvened for the public input session. Bud Carboneti, a lawyer for a group of homeowners in Juneau, spoke on their concerns about a new subdivision development taking their water.

Major points:

- \* The homeowners obtain water from both surface and ground-water sources. The new subdivision development up gradient threatens these sources by 1) reducing well yields and 2) contamination of surface water. The new development will have 250 lots and may have a community water system.
- \* These homeowners have water rights but it's not clear what protection the Water Use Act gives them.
- \* The City and Borough of Juneau has passed an ordinance which requires evidence of an adequate water supply for subdivision approval but the developer is suing to be exempted from the ordinance.
- C There was considerable discussion of the facts of the situation. The burden of proof would be on the damaged party -- the homeowners. They should keep records of water use and water levels to protect themselves. Wayne Westberg explained the mechanisms of looking for and testing a ground-water source.

Wednesday, March 12, 1980

At 9:00 a.m. representatives of the Placing Mining Task Force - Deming Cowles, DEC, Reed Stoops, DNR; Dick Logan, DF&G; and J. P. Tangen, Alaska Miners Association - gave a presentation on the activities of that group. Deming Cowles gave background on the group.

Major points:

- \* The task force became organized because of an anticipated increase in mining due to the jump in the price of gold and a feeling that close cooperation would be needed among the agencies and AMA to prevent problems.
- \* Problems the group is trying to address include: 1) too many agency contacts for miners and 2) too little understanding of mining by agencies.

- \* Progress to date is: 1) state agencies have met on an informal basis and are discussing the general problems; 2) a tri-agency master application has been developed; 3) federal agencies are being approached; and 4) a work program for the summer is being developed.
- \* Coordinated field presence is a high priority and the task force is trying to work closely with miners and mining districts on this.
- \* Tri-agency teams will be located in Fairbanks, Anchorage, and Juneau and will have a mining engineer and representatives from Habitat Protection Section of AF&G and from DEC. A request is being made to the Legislature for money to fund this.
- Q Is there any way the backlog can be examined to find potential conflicts?
- A Brent Petrie: Because of the age of some applications and the difficulty of determining ownership of claims, mining water rights are the most difficult to process.
- C Dave Vanderbrink: Fishermen are very concerned that among this influx of miners there will be those who tear up stream gravels looking for gold. This will severely impact the salmon fishery. Will these people know they need permits?
- A One of the biggest concerns of the working group is how to inform the miners about the needed permits. Also, influx of new miners is going to create conflicts with more established miners.
- C Two problems will be 1) prospectors looking at anadromous streams in non-traditional mining areas and 2) recreation gold panners. Suction dredges used by people unaware of F&G laws have a potential for destroying salmon spawning areas.
- C Dick Logan: Public notice of F&G laws is important. The procedure F&G is trying to develop is to have categories of stream reaches that have differing restrictions, with the most stringent in the salmon spawning and rearing areas. A problem is that all these important areas have not been identified.
- C There was discussion of a licensing procedure for miners but objections were raised that this would only create more bureaucracy.
- Q Dave Vanderbrink: What happens if a strike is made in a salmon spawning area.
- A Dick Logan: Generally mining is not allowed at all in spawning areas. On the Ungalik a strike was made in a spawning area and the operator was required to mine the terraces out of the river.

C J. P. Tangen: Of interest is the resurgence of mining districts. In areas of intensive mining, districts have been formed to look out for the collective interests of the miners. Major district concerns are claim trespasses, water appropriation, and regulatory agencies. Currently 12 exist with a potential of approximately 40.

Q Dick Sims: What is DNR going to do with the backlog of 400 mining water permits?

A The short term approach is to make mining the priority in the backlog. The long term approach is to request funds from the Legislature for more people.

C The position of the Board all along has been that the backlog needs to be cleaned up and the need and requirement for water rights must be advertised.

Next on the agenda was Lee Sharp, Juneau City and Borough Attorney. He gave a presentation on the recent Juneau ordinance requiring evidence of water availability before subdivision approval.

Major points:

- \* The problem was identified by controversies over subdivisions that did not have adequate water or sewer. Many of the areas now available for development are short in water supplies.
- \* The ordinance was passed to clarify the authority of the city and borough to require identification of an adequate water supply.
- \* The problem with Montainside Estates is that the developer brought the subdivision plat in for approval before the ordinance was passed and they do not feel their plat should fall make the new ordinance.
- \* One of the questions brought out by this case is what if water is physically available but not legally. Both are required by the Planning Commission.
- C Wayne Westberg: One of the problems with the legal requirement is that for a subdivision on individual systems all water rights won't be granted until all lots are developed.
- C Bob Merry of the Southeast District Office (SEDO) of DFLWM explained SEDO's permitting procedures for subdivisions. Certificates are not issued unless the system has been inspected. The City and Borough Planning Commission sends SEDO copies of plats for input into water availability.
- C There was some discussion of catchment systems. They are not considered an alternative under the Juneau ordinance but are used in Homer and Ketchikan.

- C One solution for the difficulties caused by requirements for adequate water supplies might be state assistance for construction of community water systems.

At 11:25 a.m. Ernst Mueller, Commissioner of DEC, gave the DEC agency report.

Major points:

- \* DEC is working on an agreement with DNR and Ketchikan to provide sewers to subdivisions in a manner similar to the requirement of the Juneau ordinance.
  - \* Pending legislation affecting DEC was briefly discussed. Included in this were construction grants, the litter control bill, oil spill legislation, and hazardous waste disposal legislation.
  - \* DEC reorganized recently and is still experiencing problems. The transfer of people from headquarters to field offices has resulted in a difficulty in filling some of the empty technical positions.
  - \* Water discharge quality and pesticide regulations were recently revised with the goal of eliminating superfluous permits.
  - \* Permitting in general was discussed at length. The Environmental Procedures Coordination Act was passed to simplify or coordinate permitting. Permitting centers exist in Juneau and Anchorage and one is in the budget for Fairbanks. The permit directory has been reprinted and attempts have been made to include federal agency permits.
- C Dick Sims: Yesterday the Alaska Logger's Association gave a presentation and discussed a problem with permits. Bob Martin of DEC stood up and said he thought the problem could be resolved. The Board was impressed with that. Also, the work of the placer mining task force is impressive and the reports on the one stop permitting process are good.

Q Peg Tileston: How is DEC involved in the Skagway vs. EPA dispute.

A Ernst Mueller: DEC is a codefendant with Skagway and has been acting as a negotiator between the two.

The Board recessed for lunch and at 1:30 p.m. reconvened with Linda Dwight of the Institute of Water Resources discussing the draft five year plan for Alaska water resources research.

Major points:

- \* The draft summarizes problem identification efforts that have been conducted by several organizations throughout the State. The Institute of Water Resource, Alaska Water Assessment, Southcentral Alaska Level B Study, DEC's Alaska's Environment have identified problems.

- \* Comments on the draft are coming in. At the next Board meeting a final draft will be presented for the Board's input.
- \* Current research includes approximately 400 projects on water resources but it is not possible to determine the dollar value this represents.
- \* Dick Sims: Has native water rights been identified as a research priority?
- A Linda Dwight: That's more a problem that needs to be worked out between DNR and the native organizations. The Institute of Water Resources would be interested in doing research if funded.
- C LeVake Renshaw: Has there been any input from private sector? Lack of data is always perceived as a problem. There comes a time when more data collection has marginal value.
- C Much research done by outside universities and organizations is not reported in Alaska. One of the goals of AEIDC's efforts to keep track of current research is to give Alaska notice of what's going on.
- Q How do state agencies avail themselves of your services?
- A Linda Dwight: It is improving but is continually hampered by the large turnover in state personnel.
- C Linda Dwight: The report on research in Alaska will not be published due to a combination of a lack of funding and rising publication costs. Searches for specific topics will be done upon request instead.

Next Bob Loescher of Sealaska Corporation spoke about that organization's interest in water resources.

Major points:

- \* Sealaska is the native regional corporation in Southeast Alaska and is projecting a minimum of 280,000 acres conveyance under ANCSA. Much of this land will be near communities which will entail special problems with water resources. Sealaska characterizes itself as a natural resources management corporation and intends to have a staff capable of doing comprehensive land use planning and to develop a management program.
- \* The impact of regulatory actions on future landholdings is of great interest. The coastal management program will have a great impact as will the Forest Practices Act and the 208 water quality program.
- \* One thing the Water Resources Board could do is slow down the development of regulations for these programs so that Sealaska could have some input.

- Q LeVake Renshaw: Does Sealaska have any position on Paug-vik? Has there been any conflict between an individual filing for a water right and the native corporation?
- A Bob Loescher: Sealaska has been following this case closely but has not taken official position. If there was a conflict Sealaska would probably claim ownership of the water.
- C LeVake Renshaw: The Board has seen in a number of locations that on native lands individuals have been told not to file because the native corporation owns the water right. That may not be so and these individuals are not being protected.
- Q Dick Sims: Did the regional corporations see our resolution of the last meeting?
- A Charles Johnson: Yes, it was discussed at the AFN meeting. The problem from the native corporations' point of view is DOL acceptance.
- C Dick Sims: It should be possible to work this out to everyone's satisfaction by adding a disclaimer. The individual would be protected and neither the State's nor the native corporations' positions would be compromised.

At 3:40 Bob Merry, Water Officer for the Southeast District Office (SEDO) of DFLWM, gave a presentation on the water management operations of SEDO.

- \* SEDO is the first district to eliminate the backlog. The new regulations simplified matters for domestic cases.
- \* The next project is improvement in public information. The District is developing a water user's information pamphlet for distribution to the public. Also a series of informational articles are planned for the local newspapers.
- \* SEDO is trying to keep procedures as simple as possible for the public.

Next, Steve Mack gave the DNR agency report.

Major points:

- \* New regulations have gone into effect that should enable a reduction in backlog. The regulations have not been in effect long enough for this to be noticeable.
  - \* DFLWM was recently reorganized into a form similar to that of DEC. Looking at the lines of communication the Water Management Section is further from the districts.
- C Dick Sims: It appears the Water Management Section could work out some agreement with another agency and have it cancelled by the operations deputy director.

- \* The Water Management Section is in a cooperative program with the USGS developing a water use data system. This will enable computer storage of much of the information in our water rights case files. It involves correcting older work and the coding of previously uncoded case files.
- Q What is the status of the backlog?
- A Steve Mack: The backlog is approximately 2,000 in Southcentral and 450 in Northcentral. The new regs should allow speedy processing of backlogged domestic cases. After July 1, more people should be working on water rights.
- Q Dick Sims: The heavy influx of mining cases will be before then. Is there flexibility to assign more personnel to water rights now?
- A Steve Mack: Yes, if the director or district manager felt water rights was a large enough problem, personnel could be assigned to it.
- C Fred Boness: A meeting of the Geothermal Resources Act, HB 779, was described. The present bill was drafted principally by NCSL and has a temperature cutoff of 120° C for the geothermal resource. Anything above 120° C would be leaseable and treated as a correlative right. There was some question whether this would be constitutional but experience in other states indicates it is.

Thursday, March 13, 1980

At 9:00 a.m. Gerry Whitley, regional manager for the Yukon Water Resources Agency gave a talk on water resources management in the Yukon. He passed out a number of articles, forms, and informational sheets on or by the Water Resources Agency. In some detail he described the water resources activities in the Yukon Territory and gave a slide presentation on placer mining water use.

Major points:

- \* The Yukon Territory has a water resources board that is more regulatory in nature than Alaska's. The regional manager is controller for the Board.
- \* Water use is regulated under guidelines which are of questionable legality.
- \* Water rights are separated into licenses and authorizations. Licenses are for larger operations which use large amounts of water on an annual basis. Placer mining water use comes under authorizations.
- \* Streams that have had heavy placer mining historically are termed designated streams and have water quality standards relaxed. A potential problem is that with the increase in the price of gold

many non-designated streams will have placer mining in the coming summer. This has been indicated by an increase in staking.

- \* The present system was adequate when the level of placer mining was low but it will have trouble handling increased activity.
- Q Is there any special geothermal legislation? Are there any geothermal sites in the Yukon?
- A Gerry Whitley: There's no geothermal legislation. Naturally warm water is used to keep Whitehorse's municipal supply from freezing in winter and some warm springs do exist in the Yukon territory.
- Q Dick Sims: What is the possibility of having a meeting in Whitehorse with the Yukon Board this summer?
- A Gerry Whitley: The purpose of this trip was to make the necessary connections to allow a formal meeting. An initial letter to the chairman of the Yukon Water Board requesting the joint meeting would be appropriate. It is important that proprieties are met so that these contacts continue in the future.

After lunch the Board held its business session.

Pending legislation:

- \* SB 395, liability for flood control project damages -- the Board reaffirmed its earlier resolution in support of passage. See Resolution 80-4 at back.
- \* HB 118, Instream flow bill -- there was some discussion of a review period for all reservations -- every five or ten years-and discussion on the difference between reservation and appropriation. Dick Sims moved that the Board approve passage of HB 118 with agreed upon wording changes. This was seconded and approved unanimously. See Resolution 80-1 at back.
- \* HB 953, an act relating to hydroelectric projects -- no action was taken on this bill.
- \* SSHB 186, amendments to the Water Use Act -- there was discussion on wording changes and on how passage of this bill was important for HB 779. Dick Sims moved for support for this bill with one wording change. It was seconded and passed unanimously. See Resolution 80-2 at back.
- \* SSHB 779, Geothermal Resources Bill -- the main topics of discussion were the use of correlative rights, the 120° C cutoff and safety considerations. The program would be administered by DNR even though the Oil and Gas Commission has more expertise. A resolution supporting passage was moved, seconded, and passed with Charles Johnson and LeVake Renshaw abstaining. See Resolution 80-3 at back.



Title III -- concern was expressed that programs should analyze existing data rather than collect more data. Brent Petrie and Steve Mack explained that several of the programs involved analysis of existing data Ship Creek Water rights.

Q Dick Sims: Where is the adjudication on Ship Creek?

A Brent Petrie: DNR and DOL have looked at the use of a declaratory judgement as a way of proceeding.

C LeVake Renshaw: This uncertainty has been holding up a large municipal project. Is the AG's office going to do something on this?

A Brent Petrie: There's no directive at this time to file suit but the state has the authority to file.

C Concern was expressed over doing a general adjudication without the consent or support of the major parties. One solution would be to contact everyone to see what their reaction would be. The board recommended that as a course of action.

#### Portable Suction Dredge Resolution

Dick Sims read a resolution proposing the licensing of portable suction dredges which was prepared by Dave Vanderbrink. LeVake Renshaw suggested that the resolution be changed to include all precious metals. There was considerable discussion on the general use of suction dredges and whether a permit or license would be more appropriate. It was moved and seconded that the resolution be adopted with wording changes. The motion passed unanimously. See Resolution 80-5 at back.

#### Advertising for Water Rights

C Dick Sims: The Board has passed several resolutions to little or no avail and should consider what further action is appropriate.

C Several alternatives were discussed including initiation of court action, requesting a meeting with the Governor and going to the Ombudsman. Lack of advertising is a disservice to the public and an advertising campaign would overload present DFLWM staff. Both lack of funding from the Legislature and lack of emphasis from DNR are problems. Perhaps the Water Resources Board could place their own ads.

It was moved, seconded, and passed unanimously that the Water Resources Board develop and place ads on water rights.

#### Placer Mining Task Force

The activities of the Task Force were discussed. The administration is requesting funds from Legislature. This money will go mainly for air charter and travel. DNR would get no new people. It was

moved, seconded, and passed that Chairman Sims talk to Ted Smith, Director of Division of Forest, Land and Water Management about immediately assigning more people to work on placer mining water rights.

The Board also agreed to offer support to Bruce Wright for his public information program on placer mining.

- C The next item of discussion was DNR's failure to approve the one step permitting process. Brent Petrie suggested that the Board ask Ted Smith or Tom Cook, Director of DMEM, explain DNR's position; either by letter or if there's enough questions perhaps a committee could go meet with Ted.

#### Rural Alaska Water Rights Resolution

- C The resolution of the past meeting and lack of a response was discussed. Something stronger should be passed, specifically directing the State to develop wording that would enable individuals to apply for water rights without compromising either the native corporations' or State's position. A motion directing this was seconded and unanimously passed. It was requested that a representative from DOL be present at the next meeting.

The meeting was adjourned until the next day when the Board assumed its duties as 208 Water Quality Planning Advisory Committee.

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

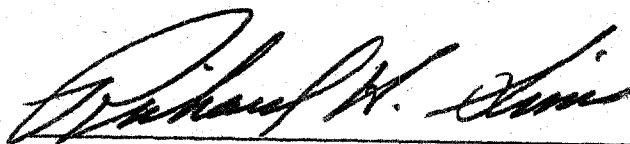
Whereas the provision in HB 118 resolve these problems and streamline the state's water management system; and

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 14 th day of March, 1980

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

Richard H. Sims, Chairman

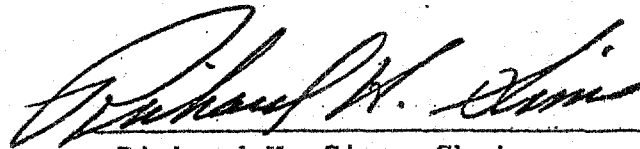
Alaska Water Resources Board  
Resolution 80-2

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', written over a horizontal line.

Richard H. Sims, Chairman

Alaska Water Resources Board  
Resolution 80-3.

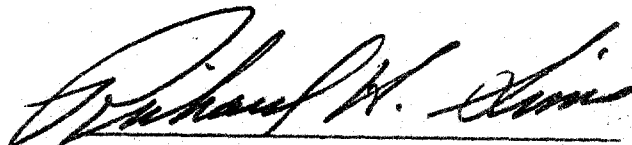
Whereas SSHB 779 introduced in the Eleventh Legislature, second session proposes changes in state law concerning development of Alaska's geothermal resources; and

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

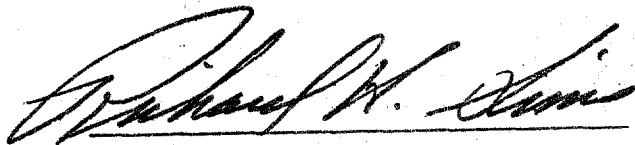
Whereas, the existing legislation provides automatic liability on behalf of the State for any flood control project; and

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

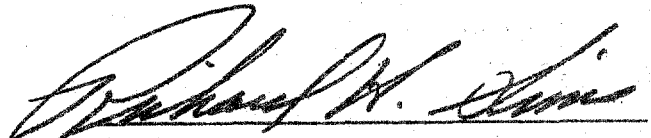
Whereas there is a significant potential for degradation of Alaskan streams through the increased use of small portable suction dredges; and

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.



Richard H. Sims, Chairman