

SENATE CONCURRENT RESOLUTION NO. 3
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATORS BUNDE, Therriault

Introduced: 2/4/09

Referred: Resources, Judiciary

A RESOLUTION

1 **Urging the Governor to file an action to restrain the United States Department of the**
2 **Interior, National Park Service, from intruding on the sovereign right of the state to**
3 **exercise jurisdiction over navigable water and submerged land and urging the Governor**
4 **to allocate sufficient resources to the Department of Law, the Department of Natural**
5 **Resources, and the Department of Fish and Game to defend the state's right to manage**
6 **the public use of its navigable water.**

7 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 **WHEREAS**, under the equal footing doctrine, the Alaska Statehood Act, and 43
9 U.S.C. 1301 - 1315 (Submerged Lands Act of 1953), the state assumed ownership of all
10 submerged land of navigable waterways within the boundaries of the state and all land
11 permanently or periodically covered by tidal water between the line of mean high tide and
12 seaward to a line three geographical miles from the coastline of the state, except for
13 submerged land specifically reserved by the United States Congress; and

14 **WHEREAS** the state acquired full power and control over the navigable water of the

1 state for use of watercraft, placer mining, recreation, commerce, and many other public uses,
2 regardless of the upland ownership, except where the United States Congress specifically
3 limited the state's authority; and

4 **WHEREAS** the Constitution of the State of Alaska, state statutes, and state
5 regulations clearly address and reiterate state ownership of and the power of the state to
6 manage its submerged land and navigable water, and the people of the state have free and
7 unrestricted access unless restricted by state law; and

8 **WHEREAS** the Alaska National Interest Lands Conservation Act clearly states that
9 regulations adopted for the management of conservation system units such as national parks
10 apply only to federal land within those units; and

11 **WHEREAS** the United States Department of the Interior, National Park Service,
12 began regulating public use of navigable waterways in 1996 and thereby usurped the state's
13 sovereign management of the public use of those navigable waterways; and

14 **WHEREAS**, as a result of its incursion on state authority, the United States
15 Department of the Interior, National Park Service, has directly affected the people of the state
16 in a number of ways, including prohibiting the use of certain types of watercraft that are
17 authorized by the state, issuing citations to placer miners that have valid state permits,
18 requiring commercial riverboat operators and dog mushing tours to secure federal permits,
19 and restricting the methods and means used in the recreational and subsistence fisheries; and

20 **WHEREAS** the United States Department of the Interior, National Park Service,
21 continues to expand the restrictions on the public use of navigable water of the state, thereby
22 voiding the state's legitimate authority and jurisdiction; and

23 **WHEREAS** the state has tried unsuccessfully for 12 years to resolve administratively
24 the issue of state authority over submerged land and navigable water;

25 **BE IT RESOLVED** that the Alaska State Legislature urges the Governor to file suit
26 against the United States Department of the Interior, National Park Service, to restrain the
27 United States Department of the Interior, National Park Service, from intruding on the
28 sovereign right of the state to exercise jurisdiction over submerged land and navigable water;
29 and be it

30 **FURTHER RESOLVED** that the Alaska State Legislature urges the Governor to
31 allocate adequate resources to the Department of Law, the Department of Natural Resources,

- 1 and the Department of Fish and Game to defend and advocate for the state's right to manage
- 2 the public use of its navigable water.