

LEGAL SERVICES

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MEMORANDUM

January 29, 2013

SUBJECT: Amending the land description for the Petersville Recreational Mining Area (Work Order No. 28-LS0190\A)

TO: Representative Wes Keller
Att.: Jim Pound

FROM: Donald M. Bullock Jr.
Legislative Counsel

The bill delivered to you earlier amends the description of land and water that are included in the Petersville Recreational Mining Area (Petersville). You asked whether this bill violates the prohibition against local and special legislation in art. II, sec. 19, Constitution of the State of Alaska.¹ Passage of the bill is not prohibited by art. II, sec. 19.

The establishment of the area is authorized by art. VIII, sec. 7, Constitution of the State of Alaska. Section 7 authorizes the legislature to acquire special purpose sites and to preserve and administer the sites for the "use, enjoyment, and welfare of the people."² A description of the area is consistent with acquiring and administering a specific area for the people, and this bill amends the description of Petersville.

While a description of any limited area in the state is necessarily local, the constitutional authority to acquire and administer Petersville necessarily requires a description of the

¹ Article II, sec. 19. Local or Special Acts. The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. Local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected.

² Article VIII, sec. 7. Special Purpose Sites.

The legislature may provide for the acquisition of sites, objects, and areas of natural beauty or of historic, cultural, recreational, or scientific value. It may reserve them from the public domain and provide for their administration and preservation for the use, enjoyment, and welfare of the people.

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area within Petersville. This bill amends the description of that area. Given the context, the local or special prohibition is likely inapplicable.

You may wish to review the reasons for excluding the mining claims listed in the bill. Although the designation of the specific area may be necessary for the establishment and administration of the area, the basis for excluding previously included land and water should be consistent with the management of Petersville for the people of the state.

If I may be of further assistance, please advise.

DMB:Ind

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