

**SUSITNA BASIN RECREATION RIVERS: WHAT IS AT STAKE**

**LEGISLATIVE PROPOSAL SB 97, SECTIONS 19, 20 TO REPEAL AS 41.23.400-510 RECREATION RIVER DESIGNATION AND MANAGEMENT PLAN**

The Susitna Basin Recreation Rivers and their corridors are reserved as a special purpose area under Article VII sec. 7 of the Alaska Constitution. The 6 waterways are each divided into subunits with their own management goals. The Susitna Basin Recreation Rivers are: Little Susitna River Management Unit; Deshka River including Neil Lake, Kroto Creek and Moose Creek; Talkeetna River including Chunilna Creek; Lake Creek including Chelatna Lake; Talachulitna River including Judd Lake; and Alexander Creek including Alexander Lake and Sucker Creek. The land on both sides of the waterway are designated Recreation River Corridors. They vary from one-quarter to two miles wide, dependent on the amount of state land involved. A total of 73 Public Use Sites and 15 Special Management Areas are within the 6 waterway management units.

**BACKGROUND OF SUSITNA BASIN RECREATION RIVERS**

1. Susitna Area Plan: The first official mention of Recreation Rivers in the Susitna Basins was in the Alaska Department of Natural Resources (DNR) Susitna Area Plan (SAP). This plan was signed by DNR Commissioner Esther Wunnicke on April 4, 24, 1985 after extensive public participation. This was the management plan for state lands in the Susitna Area. SAP's chapter 4 Implementation recommended as a priority for Recreation Rivers Corridors for Kroto Creek, Moose Creek, Lake Creek, Talachulitna River, Alexander Creek and the Talkeetna River.

SAP states when a legislative designation is proposed for long term retention it possesses such high resource values that it is clear that the area should remain in public ownership permanently and/or the nature and value of the resources present require more restrictive management for the protection than is possible under the general multiple use designation.

Regarding these waterways, SAP states:

- These waterways are extremely valuable to the region's economy and environment. Money spent on transportation and river based recreation is an important source of local income;
  - These streams and rivers are heavily used by the public for fishing, floating, boating, transportation and public access to hunting and recreation sites;
  - They attract people across the nation as well as Alaskan residents;
  - All of these rivers are anadromous fish streams supporting the 5 salmon species and resident fish;
  - They are major contributors to the Cook Inlet commercial salmon fishery;
  - Their riparian habitat is also essential for sustenance of mammalian populations. Moose winter range along the rivers is especially important.
2. SB 93 mandating the establishment of the Susitna Basin Recreation Rivers AS 41.23.400-510 was signed into law in 1988. Some highlights of the bill:
    - Section 41.23.500 established the recreation river designation with corridors for 6 rivers. The Little Susitna River was added. Moose Creek/Kroto Creek became sub-units of the Deshka Recreation River.

- The Commissioner shall reserve to the state under AS 45.15.145, an instream flow or level for water in the rivers described in AS 41.23.500 that is adequate to achieve purpose of AS 41.23.400.
- Under AS 41.23.430, a 13 member advisory board is established and will consult with the Commissioner in preparing, adopting and revising management plan and regulations affecting use and management of the recreation rivers.
- A management plan in consultation with affected municipalities, the Advisory Board, the public and state agencies shall prepare a Management Plan. The plan will be submitted to the legislature and if not rejected will take effect `100 days after that passage.
- The Commissioner cannot get land for inclusion in the corridor by eminent domain.
- State owned land and water to be established as recreation river corridor can only happen by legislation.
- Recreation Rivers and corridors are reserved as special purpose areas under article VII sec. 7, Constitution of the State of Alaska.

### 3. Susitna Basin Recreation Rivers Management Plan (SBRRMP)

A quote from the actual plan describes the public process in creating the plan.

From page 1-7: "The plan is the culmination of the efforts of a wide spectrum of agencies, organization, public, individuals, and the legislature. The plan provides a long-term blueprint for the management of these six important rivers. The plan was not developed in a vacuum... Thousands of individuals attended public meetings, wrote letters, signed petitions, and contributed to the development of the plan alternatives and plan. As a result of this public input, significant changes were made at every step of the process." The process took over 2 years.

The Plan created 73 Public Use Sites for all 6 waterways. These are areas of high public use with unique resource values. They are important access for fishing, camping recreation and other public uses and values.

Fifteen Special Management Areas were created. These are areas of existing or proposed isolated development or clusters of private land. They are to be managed for different levels of development and recreation than on the surrounding public lands.

The plan was adopted after legislative review in the spring of 1991. The plan is for a 20 year period of time with a 5 year review. A Recreation Rivers Advisory Board was to be established to oversee implementation along with an interagency team.

Like many other DNR management plans, the implementation and review requirements did not happen as mandated.

### **WHAT IS AT STAKE**

The passage of SB 97 will undo all of the management goals, long range guidelines, and management practices of these waterways and corridors. This action would effectively eliminate the protection of the six rivers' high public values.

## Susitna Basin Recreation Rivers: Background and Repeal Consequences

The Administration, through the Director of DNR's Division of Mining, Land and Water testimony, contends that the Susitna Basin Recreation Rivers (SBRR) are covered adequately by the current DNR land management plans Southeast Susitna Area Plan (SESAP) and Susitna Matanuska Area Plan (SMAP). The contention is that their classification as habitat and public recreation dispersed will give them the same protections. This is wrong. Yes, the SBRR are designated and classified under those plan classification orders. However, the management intent and administrative aspects, which are important parts of these plans, DO NOT cover them. Those plans do not cover the recreation rivers, the corridors, the public use sites or the special management areas.

The SBRRs are considered Legislatively Designated Areas (LDA). Here is the exact wording of the current plans regarding those waterways and corridors.

- Page 3-121 of SMAP Resource Allocation Table- Legislatively Designated Areas regarding Unit L-01 the State Recreation Rivers the Designation is Habitat and Recreation dispersed.

"Management Intent: State Recreational Rivers: Manage uses consistent with the legislative purposes described in AS 41.23.500 and with the Susitna Basin Recreation Rivers Management Plan. DMLW is responsible for the management of State Recreational Rivers. Administrative Aspects and Other: **The requirements of this area plan do not apply to State Recreation Rivers. SRRs are closed to locatable mineral entry, but are open to coal and mineral leasing and to oil and gas exploration and development. Specific regulations exist that provide management guidance to DMLW.**" (Emphasis added)

- Page 3-69 of the Southeast Susitna Area Plan under Chapter 3 Navigable Rivers and Lakes under Legislatively Designated Areas.

"LDAs are special purpose sites that are managed according to the requirements of the legislation specific to the site and to the general class of LDA (**Article VIII, paragraph 7 of the State Constitution**), and any subsequent management plans or regulations that implement the requirements of the legislation. The effect of the LDA designation is to reserve state land out of the public domain and use or protect it for the purposes stipulated in enabling legislation.

**For these reasons, area plans do not apply to the types of LDAs in the planning boundary, except for the plan designation that is assigned, which is subsequently converted to a land classification in a Land Classification Order.** (Emphasis added) Certain types of authorizations issued by the Department involve a disposal of state land and administrative regulation requires that the land, with certain exceptions, must first be classified....These designations are not intended to provide a general management direction similar to the way that designations are applied in other parts of this plan, however Management direction for authorizations within LDAs is provided either through the enabling legislation, state administrative regulation, or management plan. If management plans or administrative regulations are not available, the general management intent specific to the LDA or to the category of LDA are to be followed."

SMAP and SESAP were passed without any guidelines for those 6 waterways and corridors. Thus, if the Administration's solution is to repeal the legislation and let the overall management plans cover the areas then both those plans will have to go through a public process to amend the plans for goals and guidelines for those rivers, streams, lakes, public use sites and special management areas.

## Susitna Basin Recreation Rivers: Background and Repeal Consequences

Concerns amongst the public about the way the SBRR are managed or rather not managed are legitimate. **The main problem is that DMLW never really followed through in its responsibilities of the legislative mandate and management plan.** If there was an advisory board, as allowed under the plan, there would be flexibility with issues such as dock lengths. An advisory board is not hard to put together. The SBRRMP public process was rigorous. There were many compromises.

The lack of 5 year reviews of the plan as a public complaint is true. However, this is comparable to other DNR land management plans. DMLW had no five year review of their other 2 Susitna area land management plans either. The Susitna Area Plan was signed in 1985. It finally got public review when DMLW split the area and passed the Southeast Susitna Area Plan in 2008 and the Susitna Matanuska Area Plan in 2011. **SB 97, instead of repealing the Susitna Basin Recreation Rivers, should mandate a public review of the management plan.**

Part of the SBRRMP was to mandate acquiring Instream Flow Reservations on these rivers to protect water quality, recreation, and fish and wildlife habitat. **If SB 97 passes, will these important water rights be null and void and repealed as well?** This is an important question that needs answers.

Becky Long  
Talkeetna Alaska  
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