

**CS FOR SENATE BILL NO. 198(RES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 3/14/96  
Referred: Finance

Sponsor(s): SENATOR TORGERSON

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act establishing the Homer Airport Critical Habitat Area."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** PURPOSE. The purpose of the Homer Airport Critical Habitat Area is to  
4 provide an area for enhancing winter browse for the moose herd in the lower Kenai Peninsula  
5 area and for guaranteed public access to and continued public fishing, hunting, and trapping  
6 activities and opportunities in the area, consistent with maximum sustained yield.

7 \* **Sec. 2.** AS 16.20 is amended by adding a new section to read:

8 Sec. 16.20.630. HOMER AIRPORT CRITICAL HABITAT AREA  
9 ESTABLISHED. (a) The following described area is established as the Homer  
10 Airport Critical Habitat Area:

11 (1) Tract A:

12 Township 6 South, Range 13 West, Seward Meridian

13 Section 21: that portion of the S1/2NE1/4 upland of the  
14 ordinary high water line of Beluga Lake, comprising 9.3 acres,  
15 more or less;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

(2) Tract B:

Township 6 South, Range 13 West, Seward Meridian

Section 21: that portion of the NE1/4 upland of the ordinary high water line of Beluga Lake that is encompassed by a boundary beginning at the section corner common to Sections 15, 16, 21, and 22, Township 6 South, Range 13 West, Seward Meridian; thence proceeding South 00 degrees 01 minute 00 seconds East along the section line common to Sections 21 and 22, Township 6 South, Range 13 West, Seward Meridian, to the point of intersection with a line located 1,520 feet South of and parallel to the northern section line of Section 21, Township 6 South, Range 13 West, Seward Meridian; thence along the line located 1,520 feet South of and parallel to the northern section line of Section 21, Township 6 South, Range 13 West, Seward Meridian, to the point of intersection with the ordinary high water line of Beluga Lake; thence in a northwesterly direction along the meanders of the ordinary high water line of Beluga Lake to the point of intersection with the West boundary line of NE1/4, Section 21, Township 6 South, Range 13 West, Seward Meridian, being common to the center quarter line of Section 21, Township 6 South, Range 13 West, Seward Meridian; thence North 00 degrees 01 minute 00 seconds West along the West boundary line of NE1/4, Section 21, Township 6 South, Range 13 West, Seward Meridian, to the point of intersection with the section line common to Sections 16 and 21, Township 6 South, Range 13 West, Seward Meridian; thence East along the section line common to Sections 16 and 21, Township 6 South, Range 13 West, Seward Meridian, to the point of beginning; comprising 70.4 acres, more or less;

(3) Tract C:

Township 6 South, Range 13 West, Seward Meridian

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

- Section 15: S1/2SW1/4, comprising 80 acres, more or less;
- (4) Tract D:  
Township 6 South, Range 13 West, Seward Meridian  
Section 22: that portion of the NW1/4 northwesterly of a line parallel to, northwesterly of, and 750 feet perpendicular from the monumented runway centerline of the Homer Airport, comprising 60 acres, more or less;
- (5) Tract E, comprising 74 acres, more or less:  
Township 6 South, Range 13 West, Seward Meridian  
Section 15: those portions of SW1/4SE1/4 and E1/2SE1/4 northwesterly of a line parallel to, northwesterly of, and 750 feet perpendicular from the monumented runway centerline of the Homer Airport;  
Section 22: that portion of the NW1/4NE1/4 northwesterly of a line parallel to, northwesterly of, and 750 feet perpendicular from the monumented runway centerline of the Homer Airport;
- (6) Tract F:  
Township 6 South, Range 13 West, Seward Meridian  
Section 22: those portions of Government Lots 5 and 6 southeasterly of a line parallel to, southeasterly of, and 850 feet perpendicular from the monumented runway centerline of the Homer Airport, comprising 4 acres, more or less;
- (7) Tract G, comprising 2.7 acres, more or less:  
Township 6 South, Range 13 West, Seward Meridian  
Section 22: that portion of Government Lot 9 southeasterly of a line parallel to, southeasterly of, and 850 feet perpendicular from the monumented runway centerline of the Homer Airport;  
Section 22: that portion of the NW1/4NE1/4

1 southeasterly of a line parallel to, southeasterly of, and 850 feet  
2 perpendicular from the monumented runway centerline of the  
3 Homer Airport.

4 (b) Notwithstanding AS 16.20.500 - 16.20.530, the land in Township 6 South,  
5 Range 13 West, Section 21 described in (a) of this section is subject to the following:

6 (1) the right of unobstructed passage by aircraft over the land;

7 (2) the right of aircraft to use the airspace above the land without  
8 restrictions on noise, dust, or fumes, other than those imposed under federal and state  
9 laws governing air and water quality;

10 (3) the authority of the Department of Transportation and Public  
11 Facilities to

12 (A) prohibit the construction of obstructions and permanent  
13 structures on the land;

14 (B) clear the land and keep the land clear, including removal  
15 of trees, brush, soil, berms, hills, irregularities in the topography, stockpiles,  
16 rocks, buildings, structures, and other obstructions;

17 (C) prohibit or remove an activity, installation, or object on the  
18 land that

19 (i) creates electrical interference with radio  
20 communication or navigational instruments of aircraft or the Homer  
21 Airport;

22 (ii) may enhance bird habitat on or in the vicinity of the  
23 Homer Airport;

24 (iii) hinders the ability of pilots to distinguish between  
25 airport lights and other lights;

26 (iv) results in glare in the eyes of pilots using the Homer  
27 Airport;

28 (v) impairs visibility in the vicinity of the Homer  
29 Airport; or

30 (vi) endangers the landing, departure, or maneuvering of  
31 aircraft at the Homer Airport;

1 (D) prohibit development on the land for any purpose, other  
2 than public access across the land;

3 (E) require

4 (i) approval of the Department of Transportation and  
5 Public Facilities for the design and construction of access across the  
6 land;

7 (ii) relocation of access across the land as necessary to  
8 satisfy applicable standards of airport design, safety, and security;

9 (F) install navigational aids on the land; and

10 (G) enter upon the land for the purpose of enforcing or  
11 implementing this subsection.

12 (c) Notwithstanding AS 16.20.500 - 16.20.530, the land in Township 6 South,  
13 Range 13 West, Sections 15 and 22 described in (a) of this section is subject to the  
14 following:

15 (1) the right of unobstructed passage by aircraft over the land;

16 (2) the right of aircraft to use the airspace above the land without  
17 restrictions on noise, dust, or fumes, other than those imposed under federal and state  
18 laws governing air and water quality;

19 (3) the authority of the Department of Transportation and Public  
20 Facilities to

21 (A) prohibit the construction of obstructions and permanent  
22 structures extending above the imaginary surface of the Homer Airport as  
23 determined under regulations of the Federal Aviation Administration;

24 (B) clear the land and keep the land clear of obstructions  
25 extending above the imaginary surface of the Homer Airport as determined  
26 under regulations of the Federal Aviation Administration, including removal of  
27 trees, brush, soil, berms, hills, irregularities in the topography, stockpiles, rocks,  
28 buildings, structures, and other obstructions;

29 (C) prohibit or remove an activity, installation, or object that

30 (i) creates electrical interference with radio  
31 communication or navigational instruments of aircraft or the Homer

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

- Airport;
- (ii) may enhance bird habitat on or in the vicinity of the Homer Airport;
- (iii) hinders the ability of pilots to distinguish between airport lights and other lights;
- (iv) results in glare in the eyes of pilots using the Homer Airport;
- (v) impairs visibility in the vicinity of the Homer Airport; or
- (vi) endangers the landing, departure, or maneuvering of aircraft at the Homer Airport;

(D) enter upon the land for the purpose of enforcing or implementing this subsection.

(d) The Department of Fish and Game shall cooperate with the Department of Transportation and Public Facilities in implementing (b) and (c) of this section.

(e) Neither the Department of Fish and Game nor another person may create, develop, or enhance bird habitat within the Homer Airport Critical Habitat Area.

(f) The state land described in (a) of this section may not be transferred to municipal or private ownership or to another state agency unless covenants or easements in the land, containing provisions substantially similar to (b) and (c) of this section, are reserved to the Department of Transportation and Public Facilities for the benefit of the Homer Airport.

(g) The Department of Fish and Game shall establish and appoint an advisory committee to work with the department and advise on the management of the Homer Airport Critical Habitat Area. If the department develops a management plan for the critical habitat area, the department shall consult with the advisory committee, and the plan must allow guaranteed access to and continued public fishing, hunting, and trapping activities and opportunities in the area. Among appointments to the advisory committee, the department shall include

- (1) industry and commercial users and hunters, trappers, fishermen, and recreational users recommended by the City of Homer;

- 1 (2) an official representing the City of Homer; and
- 2 (3) a representative of the Department of Transportation and Public
- 3 Facilities.