

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

April 23, 2007

4:10 p.m.

MEMBERS PRESENT

Senator Charlie Huggins, Chair
Senator Bert Stedman, Vice Chair
Senator Lyda Green
Senator Gary Stevens
Senator Lesil McGuire
Senator Bill Wielechowski
Senator Thomas Wagoner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 111

"An Act creating the Kodiak Narrow Cape Public Use Area."

MOVED CSSB 111(RES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 26(FSH)

"An Act relating to aquatic farm permitting involving geoducks and to geoduck seed transfers between certified hatcheries and aquatic farms."

SCHEDULED BUT NOT HEARD

CS FOR HOUSE BILL NO. 186(FSH)

"An Act relating to sharing with certain federal agencies records required of sport fishing guides; and providing for an effective date."

SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 111

SHORT TITLE: KODIAK NARROW CAPE PUBLIC USE AREA

SPONSOR(S): SENATOR(S) STEVENS

| | | |
|----------|-----|---------------------------------|
| 03/12/07 | (S) | READ THE FIRST TIME - REFERRALS |
| 03/12/07 | (S) | RES, FIN |
| 04/20/07 | (S) | RES AT 3:30 PM BUTROVICH 205 |
| 04/20/07 | (S) | Heard & Held |

04/20/07 (S) MINUTE(RES)
04/23/07 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

DOUG LETCH

Staff to Senator Gary Stevens
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 111 on behalf of Senator Stevens, sponsor.

DICK MYLIUS, Director

Division of Mining, Land and Water
Department of Natural Resources
Anchorage AK

POSITION STATEMENT: Commented on SB 111.

RICK GIFFORD, Manager

Kodiak Island Borough
Kodiak AK

POSITION STATEMENT: Commented on SB 111.

MIKE SULLIVAN, Land Manager

Southcentral Region
Division of Mining, Land and Water
Department of Natural Resources (DNR)

POSITION STATEMENT: Commented on SB 111.

ACTION NARRATIVE

CHAIR CHARLIE HUGGINS called the Senate Resources Standing Committee meeting to order at [4:10:21 PM](#). Senators Huggins, Wielechowski, Wagoner, McGuire, Green, and Stedman were present at the call to order.

SB 111-KODIAK NARROW CAPE PUBLIC USE AREA

[4:10:21 PM](#)

CHAIR HUGGINS announced the consideration of SB 111 and that the committee was working from committee substitute, version K.

SENATOR STEVENS, sponsor of SB 111, said it establishes a 46,000-acre public use area in Kodiak that is now used by a lot of activities including grazing leases and a rocket launch

complex. Everyone involved is supportive of developing this as a public use area.

CHAIR HUGGINS noted that Stacy Studebaker from the Kodiak Audubon Society was concerned about increased impacts of unregulated four-wheel activity on wetlands and bird habitat.

[4:12:07 PM](#)

DOUG LETCH, staff to Senator Gary Stevens, said ATV use is a sensitive subject because Kodiak has a large variety of users. The plan would be developed at the local level and included a local ATV working group.

[4:13:34 PM](#)

CHAIR HUGGINS recalled that there is hunting in this area and asked how close it was to neighbors and if there was a shooting range nearby.

SENATOR STEVENS replied that the shooting range is not in that area and although there are deer, he wasn't sure it was open to hunting.

MR. LETCH said there is some limited hunting, but not by the road. There may be buffalo hunting as well, but he was not sure.

CHAIR HUGGINS asked the Kodiak Island Manager what issues had been already resolved.

[4:14:47 PM](#)

RICK GIFFORD, Manager, Kodiak Island Borough, responded that the goal of the bill is to try to protect this area for public use and it tried to identify all of the traditional uses in that area realizing that there are some conflicts with some of the uses that need to be worked on - one of them is ATV use. First, the bill needs to be passed to protect the property from being sold and then managing the uses can be worked on. He said he is not familiar with the hunting activities, but it might just occur on Mr. Burton's ranch.

[4:16:56 PM](#)

CHAIR HUGGINS asked if there had been any historical conflicts that need a resolution.

MR. GIFFORD replied that at this point, the biggest issue is the ATV use.

CHAIR HUGGINS asked if the area has multiple entry points, parking areas and latrines.

MR. GIFFORD replied that there are multiple entry points and one latrine is available in the summer.

[4:18:20 PM](#)

CHAIR HUGGINS asked about winter snow machine use.

MR. GIFFORD answered that snow machine use is somewhat limited because they need to go up higher in the mountains.

CHAIR HUGGINS asked what responsibility he would have if the area is managed by DNR. He assumed that the DNR had adjacent area enforcement and signage responsibilities.

[4:19:09 PM](#)

MR. GIFFORD replied that the borough manager has some responsibility for solid waste since it is a state road system, but he works well with State Parks and DNR in resolving these issues.

CHAIR HUGGINS asked for a description of entry points and private and public property on the map.

MR. LETCH indicated that the state highway system runs to a fork and pointed to the main corridor that runs past the Burton ranch and ends at Fossil Beach, which is at the very end of Narrow Cape.

CHAIR HUGGINS asked where someone would park to offload an ATV from a Silverado pickup.

MR. LETCH said he has never done that, but the road has some pullouts and the very end of it has just foot traffic. Secondary roads lead into the Alaska Aerospace Rocket Launch Complex.

CHAIR HUGGINS asked if the rocket launch area has a fence.

[4:22:49 PM](#)

MR. LETCH said the secure areas of the rocket launch complex are fenced off and one has to go through security areas to get to different parts of it.

SENATOR GREEN asked if all of the land is owned by one level of government except for the private in holdings.

[4:23:47 PM](#)

MR. GIFFORD replied that it is all state land except for the lease in holding for the buffalo ranch.

SENATOR GREEN asked where the state's authority started and where it overlapped the rights and authority of the borough in reference to language on page 2, line 28, that says the commissioner may prohibit or restrict uses that are incompatible within the state-owned land.

MR. GIFFORD said this is state, not borough, land. He didn't believe there were any other private in holdings except for the ranch.

CHAIR HUGGINS asked if any potential Native or First Nation claims might be pending.

MR. GIFFORD replied none that he knew of, but there is private and Native property on the road system leading up to the area, but not in it.

[4:26:05 PM](#)

DICK MYLIUS, Director, Division of Mining, Land and Water, Department of Natural Resources, said SB 111 sets aside the state land and retains it in public ownership for multiple public uses. It would prohibit the sale or transfers of the parcel out of state ownership. The area is entirely state-owned except for the 160-acre Burton ranch, which he received through the federal government.

Kodiak has a current land use plan that covers all state lands in the Kodiak Island Borough - 500,000 acres plus the adjacent tidelands. That plan dealt with most of the land use conflicts. Specific conflicts in this general area included ORV use, but most of the real conflicts with ORV use are further to the west of the public use area in Portage bay and Psaltery Cove. That's why one of the changes in the proposed CS is to make the requirement for the land use plan an optional thing. They think that the guidance of the Kodiak area plan is sufficient and a plan could be developed in the future if conflicts arise.

MR. MYLIUS said he has never heard complaints about shooting in this area and the level of use is a lot less intense than in the Knik area. He agreed that a plan could always be developed in the future if it were needed. He also pointed out that the CS changes the legal description, because legislative drafters said

they wanted to make public use area descriptions consistent with others in format which included tidelands.

4:29:57 PM

CHAIR HUGGINS asked him to describe the management process for when the AADC launches a rocket on a Saturday.

MIKE SULLIVAN, Land Manager, Southcentral Region, Division of Land, Mining and Water, Department of Natural Resources (DNR), said he has worked on and with the rocket facility since its inception. Under current procedures, he would get a written request from the Aerospace Corporation telling him approximate dates of the upcoming launch and requesting permission to restrict access - usually in a 12-hour timeframe. He will grant written permission for those restrictions on a launch-by-launch basis. This has been done five or six times and seems to work pretty well.

4:31:41 PM

CHAIR HUGGINS asked how four-wheelers are supposed to know they are not supposed to be in the public use area.

MR. SULLIVAN replied that part of the procedures includes putting PSAs (public service announcements) on the local radio and launches are announced in the local media and newspapers. Security guards are posted on the road for the launches.

CHAIR HUGGINS asked Mr. Sullivan if he had any concerns about having a public use area butt up against a restricted access area like the launch facility.

MR. SULLIVAN replied that the existing procedure works pretty well in keeping people out. It is open country that is swept with helicopters with the Coast Guards working offshore areas when a launch takes place.

SENATOR STEVENS recalled having as many as three launches per year, which is a pretty limited number and noted that this bill also includes notice to mariners because the waters in the area are closed also.

4:34:00 PM

CHAIR HUGGINS asked where the parking is located for offloading a four-wheeler and what the capacity is.

MR. SULLIVAN replied that the majority of the ATV use is further to the west and some might be associated with the Sacramento

River, which is beyond Mr. Burton's homestead. He has not seen an actual ATV trail that takes off from the road into the public use area when he's been there. That use is more likely to take place on the beaches.

CHAIR HUGGINS noted the difficulties of not having a designated area for people to park or dump trash. He asked how that would be facilitated.

MR. MYLIUS replied that at this point most of the use is fairly dispersed and not heavy. They don't have issues about inadequate parking and haven't had complaints about garbage. This is a long way from Kodiak, so the people going that far are going to recreate. If it becomes a problem, it could be dealt with, but right now he hasn't heard of a need.

CHAIR HUGGINS said a letter from Stacy Studebaker from the Kodiak Audubon Society stated a concern about the increased impacts of unregulated four-wheel use on wetlands and bird habitat.

MR. MYLIUS responded that the wetland areas that are sensitive to RV use are mostly to the west of the public use areas and haven't had any real conflicts. He said a lot of ORV use is along the beaches. One of the differences between this area and the Knik areas is that Knik has a lot of gravel bars and places where it is easy for ORVs to travel across and Kodiak has less inviting terrain. Their use tends to be more focused on existing trails and old roads.

[4:37:53 PM](#)

CHAIR HUGGINS asked him to talk about hunting in the area.

MR. MYLIUS said he has heard no issues about hunting in that area.

SENATOR STEVENS pointed out there is a lot of deer hunting and salmon fishing to the west of the proposed public use area.

[4:38:58 PM](#)

MR. LETCH added that what is there is very special to the people of Kodiak. More likely than not, the people are going down there to walk the beach that has fossils embedded in the cliffs.

CHAIR HUGGINS asked assuming one can rent a four-wheeler, how long would it take to run from Kodiak down to that neck of the woods.

[4:40:07 PM](#)

SENATOR STEVENS responded that it takes an hour to drive from Kodiak to Pasagshak Bay in a car and he didn't think four-wheelers could be rented in Kodiak.

SENATOR WAGONER said four-wheelers aren't licensed to run down the state road and added that if some teenagers were trying to sneak up on the rocket launch, they would be in the open the whole way.

CHAIR HUGGINS said that in Mat-Su, ORVs run along side the road.

[4:40:45 PM](#)

SENATOR GREEN noted another constituent letter mentioning the potential expansion of the rocket area and how she wouldn't want that to happen. Senator Green said the state has already invested heavily in the area and asked what if it needs to be expanded, is that prohibited?

CHAIR HUGGINS replied that the state would have the power of eminent domain to expand the space port.

[4:41:42 PM](#)

SENATOR STEVENS said the rocket launch has been a good citizen in the community and he believes it has the right to expand if it needs to, but he didn't know of any plans to do that. He asked the Borough Manager if SB 111 restricted the Alaska Aerospace Development Corporation (AADC) in any way.

MR. GIFFORD replied that this bill doesn't add any restrictions and that the AADC supported it.

MR. MYLIUS added that the AADC has an Interagency Land Management Agreement that gives it certain rights to on state land. They include the rights to put specific facilities in specific places and to submit a plan of operation. The agreement covers a pretty big area and only a small part of it is occupied by any facilities now. If AADC wanted to expand within the existing agreement area, it could submit a revised plan of operation, which could be "tweaked" if it impacted any trails or public uses. The proposal would go through an approval process within the DNR. The legislation doesn't constrain them at all.

[4:44:04 PM](#)

SENATOR GREEN said she wants to know what happens if the AADC wants to expand past the land it already has access to.

MR. MYLIUS said the AADC would need permission in either case and either would be allowed under the public use area, but the process would include public participation.

[4:44:47 PM](#)

CHAIR HUGGINS asked if a specific person is responsible for the management of the area.

MR. MYLIUS replied that the Southcentral Regional Office is responsible for that area and probably Mike Sullivan would be the person to talk to.

CHAIR HUGGINS asked if enforcement were needed in this public use area, what the process would be.

MR. MYLIUS replied that it would depend on the nature of the issue. A long-term trespass issue would be dealt with through a site inspection from the regional office. For immediate problems like public safety, the troopers in Kodiak would go out there. He was not aware of that having happened. Kodiak has a state park office and staff has gone down there to check on concerns, but they don't have enforcement authority.

[4:46:40 PM](#)

MR. LETCH added that about two-thirds of Kodiak Island belongs to the Kodiak National Wildlife Refuge; the Borough of Kodiak has about 56,500 acres of land and its entitlement has been satisfied. This would be another way of guaranteeing that what is there will remain there. If the state decides to dispose of the land, the legislature will have to weigh in on it.

SENATOR STEDMAN moved to pass CS for SB 111, version K, from committee with individual recommendations and accompanying fiscal notes. Hearing no objections, CSSB 111(RES), passed out of committee.

The committee took an at-ease from [4:48:38 PM](#) to 4:50. There being no further business to come before the committee, Chair Huggins adjourned the meeting at [4:50:41 PM](#).