

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

February 15, 2017

6:04 p.m.

**MEMBERS PRESENT**

Representative Andy Josephson, Co-Chair  
Representative Geran Tarr, Co-Chair  
Representative Dean Westlake, Vice Chair  
Representative Harriet Drummond  
Representative Justin Parish  
Representative Chris Birch  
Representative DeLena Johnson  
Representative George Rauscher  
Representative David Talerico

**MEMBERS ABSENT**

Representative Mike Chenault (alternate)  
Representative Chris Tuck (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 6

"An Act establishing the Jonesville Public Use Area."

- MOVED CSHB 6 (RES) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 6

SHORT TITLE: JONESVILLE PUBLIC USE AREA

SPONSOR(S): REPRESENTATIVE(S) RAUSCHER

01/18/17	(H)	PREFILE RELEASED 1/9/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	RES, FIN
01/27/17	(H)	RES AT 1:00 PM BARNES 124
01/27/17	(H)	Heard & Held
01/27/17	(H)	MINUTE (RES)
02/06/17	(H)	RES AT 1:00 PM BARNES 124
02/06/17	(H)	Heard & Held
02/06/17	(H)	MINUTE (RES)
02/15/17	(H)	RES AT 6:00 PM BARNES 124

**WITNESS REGISTER**

JIM SYKES, District Representative  
Matanuska-Susitna (Mat-Su) Borough Assembly  
Palmer, Alaska

**POSITION STATEMENT:** Testified in support of HB 6.

Al BARRETTE  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified during the hearing of HB 6.

MARK BERTELS, Chairman  
Sutton Community Council  
Sutton, Alaska

**POSITION STATEMENT:** Testified in support of HB 6.

KENNY BARBER  
Palmer, Alaska

**POSITION STATEMENT:** Testified in support of HB 6 and the amendments submitted by Representative Rauscher.

PATTI BARBER  
Palmer, Alaska

**POSITION STATEMENT:** Testified in support of HB 6 and the amendments submitted by Representative Rauscher.

WYN MENEFEE, Deputy Director  
Alaska Mental Health Trust Land Office  
Office of the Commissioner  
Department of Natural Resources  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing of HB 6.

BRENT GOODRUM, Director  
Division of Mining, Land and Water  
Department of Natural Resources  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing of HB 6.

#### **ACTION NARRATIVE**

[6:04:08 PM](#)

**CO-CHAIR ANDY JOSEPHSON** called the House Resources Standing Committee meeting to order at 6:04 p.m. Representatives Josephson, Birch, Talerico, Rauscher, Drummond, Johnson,

Westlake, and Tarr were present at the call to order. Representative Parish arrived as the meeting was in progress.

**HB 6-JONESVILLE PUBLIC USE AREA**

6:04: PM

CO-CHAIR JOSEPHSON announced that the only order of business would be HOUSE BILL NO. 6, "An Act establishing the Jonesville Public Use Area."

6:05:15 PM

JIM SYKES, District Representative, Matanuska-Susitna (Mat-Su) Borough Assembly, informed the committee Matanuska-Susitna Borough Resolution Serial No. 17-012, adopted 2/7/17, and provided in the committee packet, was unanimously passed in support of HB 6. He said most of the land around Sutton is public land under the purview of the Department of Natural Resources (DNR). Mr. Sykes referred to problems raised in the assembly resolution, and opined HB 6 is a good solution to a serious problem; in fact, establishing a public use area will provide a framework so that participating agencies and the community can make changes similar to those already made by the Knik River Public Use Area (KRPRU). He said providing services such as a campground, a designated shooting range, hiking trails, and all-terrain vehicle (ATV) trails are meaningful and the framework is the first step. Although the assembly resolution refers to the original draft of the legislation, he said Section 3 and Section 4 of the bill could be put in the management plan. He commended community and local government efforts in this regard - HB 6 has widespread community support - and said the Mat-Su Borough will work with DNR to create a management plan. He opined that HB 6 would solve a serious problem at minimal cost, and urged for the committee's support.

REPRESENTATIVE RAUSCHER asked Mr. Sykes whether the Sutton Community Council has the ability to work with the Mat-Su Borough and DNR to create a responsible management plan.

6:10:08 PM

MR. SYKES referred to a letter from the Mat-Su Borough director of land management, provided in the committee packet. He advised the departments of land management and planning are prepared to commit staff time to work with DNR. Furthermore, the Mat-Su Borough has an interest in seeing improvements made

in this area, as potentially the area could "pay for itself." He restated support for the bill.

REPRESENTATIVE RAUSCHER shared that a lot of the plan for the Jonesville Public Use Area was fashioned after KRPUA, which was a nine-year process, and culminated in a good plan.

MR. SYKES agreed the KRPUA was quite successful and the community holds an annual clean-up to keep the area free of trash. In addition, the area has a "learning loop" where one can learn to ride ATVs at a slow and safe speed, and a campground is being built. He said that the borough was instrumental in the plan, and offered his hope that KRPUA will serve as a good template for a solution to the problems in Sutton.

REPRESENTATIVE JOHNSON said she was pleased to have the bill before the committee.

[6:16:33 PM](#)

REPRESENTATIVE PARISH read from the previously identified Mat-Su Borough resolution as follows [in part]:

Whereas, the community of Sutton provided its own resources and funds to clean [up] and monitor the Jonesville area ....

REPRESENTATIVE PARISH stated the resolution is very commendable; however, he said his concern about HB 6 is related to the fiscal notes attached to the KRPUA enabling legislation, one of which was for \$200,000 the first year and \$150,000 the next year, and a second fiscal note was for \$330,000, and \$270,000 for the following years. He questioned how much of the fiscal responsibility the community of Sutton is prepared to bear for the Jonesville Public Use Area.

MR. SYKES offered the main things the community of Sutton would be able to contribute would be personnel and community involvement, although there may be revenue sharing funds available. At KRPUA there were a few major items and it is staffed at certain times. In addition, a shooting range was installed, and sometimes the borough can upgrade trails. Furthermore, user groups are often interested in upgrading an area, and some who live nearby often patrol areas. He was unsure about KRPUA fiscal notes and acknowledged that many infrastructure improvements to KRPUA may not immediately happen

at the Jonesville area, although the campground area at Slipper Lake has already been graded, and would be a cost-effective installation. Mr. Sykes was unsure of "what the financial commitment would be ...."

CO-CHAIR JOSEPHSON asked Mr. Sykes which amendments he personally does not oppose.

MR. SYKES said that he was referencing the "two sections that would allow more flexibility, if they were in the management plan rather than in the legislation, and my personal opinion was that it didn't make a lot of difference, but that there probably would be more flexibility if it were in the plan."

[6:21:17 PM](#)

Al BARRETTE declared his appreciation for special use areas because of the inclusion of trapping, and acknowledged supporting trapping raises many issues. In HB 6, the legislature has an opportunity to recognize existing or historical trap lines and avoid conflicts with pet owners and trap lines. Mr. Barrette referred to his previously submitted written testimony and urged the legislature to take preventive measures as to "who can trap where and who can walk a dog where."

[6:22:44 PM](#)

MARK BERTELS, Chairman, Sutton Community Council, informed the committee the decision to bring the issue to the legislature came about over one year ago, when the council realized that the Jonesville Public Use Area would be too much to be included in the Sutton Comprehensive Plan, thus the Jonesville/Slipper Lake Action Committee was formed. The committee sought assistance from the Mat-Su Borough Planning Department, and included many stakeholders in the committee process such as DNR, the Department of Public Safety (DPS), the Alaska State Troopers, and the Mat-Su Borough, along with various local clubs. The support for the bill has been successful because the stakeholders shared a consensus for multiple use that was developed during the committee process. Turning to the amendments, he said he preferred to "leave this bill open for the development of any new trails that could alleviate areas that have high-usage or impact from, specifically, all-terrain vehicles." Mr. Bertels explained stakeholders agreed that the community of Sutton overwhelmingly supports the coal industry, and he said he does not want to compromise the bill with

amendments that would limit multiple use. He restated the bill required a long intensive process with wide-spread support. The bill should be passed because it addresses the issue of public safety and is necessary.

[6:28:44 PM](#)

CO-CHAIR JOSEPHSON paraphrased in part from an amendment [labeled 30-LS0105\D.13, Bullard, 2/14/17] as follows:

"Nothing in this act would restrict or prohibit mineral exploration and development activities in the Jonesville Public Use Area."

CO-CHAIR JOSEPHSON continued:

And that seems to put mineral and exploration development above all other things, in sort of in a first place in the pecking order. Would that, is that something you'd rather leave to the management plan for a later day where people can testify and DNR would draft a management plan?

[6:29:39 PM](#)

MR. BERTELS responded:

Well, with all due respect, Representative Josephson, we, we've been through that process already as far as the compatibility of resource extraction. We've been experiencing the compatibility of these different activities for decades. We've successfully, to the point where, up until the point where, we had so many visitors, it wasn't a matter of resource extraction that was the issue, it was public safety and basic management and protection of the environment for all these uses, but ...

CO-CHAIR JOSEPHSON restated his original point which was there is no amendment or provision in the bill that would restrict or prohibit dog walking or berry picking. He remarked:

It just says in this amendment, "Nothing in the act would restrict or prohibit mineral exploration and development." Does that swing the language too far toward mineral exploration and development?

MR. BERTELS said no.

REPRESENTATIVE WESTLAKE offered his understanding that Mr. Bertels is concerned with unintended consequences to any of the actions [in the bill]. He asked Mr. Bertels if there is a local planning commission or land use committee utilized by the community.

MR. BERTELS emphasized that the process leading to HB 6 was due to the consensus of the stakeholders - including commercial resource development - and he does not want to see the consensus compromised.

REPRESENTATIVE RAUSCHER asked whether Mr. Bertels, as invited testimony, could return for further testimony if needed.

CO-CHAIR JOSEPHSON indicated yes, and opened public testimony.

[6:33:15 PM](#)

KENNY BARBER said that he supports HB 6 and the amendments proposed by Representative Rauscher. He opined KRPUA has improved that area, and suggested an amendment to [HB 6] stating that reroutes of trails must be allowed prior to the closure of a trail for any reason.

[6:35:09 PM](#)

PATTI BARBER said that she supports HB 6 as amended by Representative Rauscher. She opined that the Jonesville Public Use Area would help remedy many of the problems residents of Sutton currently are experiencing. Ms. Barber noted the success of KRPUA.

[6:35:48 PM](#)

CO-CHAIR JOSEPHSON closed public testimony and announced HB 6, Version D, was before the committee.

REPRESENTATIVE RAUSCHER stated that he was offering amendments recommended by the [Alaska Mental Health Trust Land Office, Office of the Commissioner, DNR], in order to protect certain elements of the affected land. He disclosed that he is not a spokesman for the [Alaska Mental Health Trust Land Office].

[6:38:12 PM](#)

REPRESENTATIVE RAUSCHER moved to adopt an amendment labeled [30-LS0105\] D.1.

6:38:28 PM

The committee took a brief at ease.

6:40:04 PM

REPRESENTATIVE RAUSCHER withdrew [amendment D.1]. He explained the content "will be addressed in another amendment later: D.5."

REPRESENTATIVE JOHNSON inquired as to whether public testimony would be heard related to the amendments to HB 6.

CO-CHAIR JOSEPHSON said there is no protocol to do so and gave an example.

CO-CHAIR TARR suggested a second round of public testimony would be heard if the bill were changed significantly.

[Brief discussion ensued regarding the timing of public testimony as it relates to specific amendments to legislation.]

REPRESENTATIVE RAUSCHER moved to adopt [Amendment 1], labeled 30-LS0105\D.2., Bullard, 1/30/17, which read as follows:

Page 2, lines 2 - 3:

Delete all material and insert:

"(A) continued mineral exploration and development activities;

(B) motorized access to private property, including property in which a person has a subsurface right, in the Jonesville Public Use Area; and"

Reletter the following subparagraph accordingly.

Page 3, line 9:

Delete "or"

Page 3, line 12, following "safety":

Insert "; or

(3) lawful mineral exploration and development activities within the Jonesville Public Use Area"

6:43:33 PM

CO-CHAIR TARR objected for discussion purposes.

REPRESENTATIVE RAUSCHER stated that Amendment 1 came from the Alaska Mental Health Trust Land Office. Amendment 1 clarifies that subsurface rights in the area may be leased for development, and adds language to the bill that would allow for continued mining where the Alaska Mental Health Trust [Authority] has leases.

6:44:08 PM

WYN MENEFEЕ, Deputy Director, Alaska Mental Health Trust Land Office, Office of the Commissioner, DNR, informed the committee HB 6, on page 2, line 2, allows for the continued motorized access for miners and owners of private property in the Jonesville Public Use Area. However, the bill does not speak to the fact that the affected land is a mineral exploration and development area that has existing mineral coal leases, and that the subsurface mineral estate is the dominate estate in Alaska. Amendment 1 clarifies that in addition to motorized access to miners, a full suite of activities related to mineral exploration and development would be allowed.

CO-CHAIR TARR questioned whether there is the potential for the amendment to undermine the purpose of the public use area, should a significant resource extraction development occur.

MR. MENEFEЕ stated that the mineral leases could lead to legally authorized development at some point in time; in fact, there could be a large pit and structures, or activities that obliterate certain trails. The amendment does not stop other uses in the area, but clarifies that if a mineral lease leads to the development of a mine, the recreational uses of the public use area would not supersede the mine, which already holds a legitimate ownership right.

CO-CHAIR TARR asked whether the management plan would address situations where major development, with infrastructure, may lead to a closure of a certain area to public use because of liability.

MR. MENEFEЕ, speaking from his perspective, said when a lease is issued through the Alaska surface coal mining control and reclamation act (ASCMCRA) program, there will be conditions in

the permit that will address interactions with other uses in the area; however, a coal seam with a lawful lease will mine through a recreational trail, although there may be offset costs assessed to provide an alternative trail. He deferred to the Division of Mining, Land and Water, DNR.

[6:49:42 PM](#)

BRENT GOODRUM, Director, Division of Mining, Land and Water, DNR, anticipated that the above mentioned topic and others would be addressed through a management plan that would rely upon statute and regulations as to existing rights.

CO-CHAIR TARR stated her concern is public safety; for example, abandoned mining sites and equipment can present a hazard for hikers.

CO-CHAIR JOSEPHSON observed the proposed amendment would strike the language in the bill that says the management plan shall allow, "additional public uses of the area determined by the commissioner to be compatible with this section." He surmised the Sutton Community Council supports mixed use, albeit with a priority to mining. He remarked:

... I want you in your management plan deliberations, to have lots of tension and competition, and if we strike [subparagraph] (B) line 4, you'll have less, won't you?

MR. GOODRUM answered any plan dealing with the use of state land includes healthy tension. He expressed his belief that the proposed amendment would clarify some of the higher uses already found within statute, and in the state's understanding of the dominant estate being the mineral estate. Mr. Goodrum remarked:

And so I don't know that by striking [subparagraph] (B), public uses which are generally allowed are already considered activities that we will consider within our planning process. And so I don't know that those are diminished any by highlighting the other, other uses associated with mineral development.

[6:52:54 PM](#)

CO-CHAIR TARR removed her objection to Amendment 1.

CO-CHAIR JOSEPHSON objected. He asked Representative Rauscher to accept a friendly amendment adding subparagraph (C) which read:

(C) additional public uses of the area determined by the commissioner to be compatible with this section;

REPRESENTATIVE RAUSCHER asked for an opinion from DNR.

CO-CHAIR JOSEPHSON returned attention to [subparagraph] (B), page 2, lines 4 and 5, of Version D, and pointed out Mr. Goodrum said DNR takes into consideration public uses.

REPRESENTATIVE BIRCH questioned the objective of introducing tension between the differing land interests of the surface owner and the subsurface owner, which are known. He said the objective of the bill is to manage the affected area, and the committee has heard sufficient positive public testimony, and testimony from the Mat-Su [Borough] Assembly, in support of the bill.

CO-CHAIR JOSEPHSON clarified that the committee has a unanimous [resolution] to approve HB 6 as written, not as amended. In addition, he has heard there are many Mat-Su residents who want to have dialogue "about mining in the Jonesville area." He said his intent is to ensure the management plan team considers all uses.

[6:56:17 PM](#)

The committee took an at ease from 6:56 p.m. to 6:58 p.m.

[6:58:13 PM](#)

CO-CHAIR JOSEPHSON said he had misread Amendment 1 and that under Amendment 1 [on page 2 of the bill], lines 4 and 5 would not be deleted. Co-Chair Josephson removed his objection to the motion to adopt Amendment 1. There being no further objection, Amendment 1 was adopted.

[6:59:01 PM](#)

REPRESENTATIVE RAUSCHER moved to adopt Amendment 2, labeled 30-LS0105\D.3, which read as follows:

Page 6, lines 3 - 9:

Delete all material and insert:

"**Sec. 41.23.289. Penalty.** (a) A person who violates a provision of, or regulation adopted under, AS 41.23.280 - 41.23.289 is guilty of a violation as defined in AS 11.81.900.

(b) The supreme court shall establish by order or rule a schedule of bail amounts for violations under (a) of this section that allow the disposition of a citation without a court appearance.

\* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: SCHEDULE OF BAIL AMOUNTS.  
Notwithstanding AS 41.23.289(b), enacted by sec. 1 of this Act, the supreme court shall have 90 days from the date that the Department of Natural Resources adopts regulations to implement this Act to establish a schedule of bail amounts for violations of AS 41.23.289(a) that allow the disposition of a citation without a court appearance."

CO-CHAIR TARR objected for discussion purposes.

REPRESENTATIVE RAUSCHER explained Amendment 2 would clarify the penalty section of the proposed bill, found on page 6, lines 3-9. The amendment would delete the statutory reference to arson in the 3rd degree - which is burning a vehicle - and insert transitional language which would provide the supreme court 90 days after DNR adopts regulations to issue a bail schedule for violations. He said violations would be developed as part of the management plan, and urged for the amendment to be adopted.

CO-CHAIR TARR asked to hear testimony from DNR regarding Amendment 2.

MR. GOODRUM said that [Amendment 2] would allow DNR, as it develops the management plan, to create regulations related to a bail schedule, and thus monetary fees can be imposed for violations of regulations that could be enforced by troopers or peace officers. The provision gives enforcement authority within a public use area, which is critically important, because otherwise rules won't be followed.

CO-CHAIR TARR surmised Amendment 2 would give authority for enforcement, but it would be the responsibility of the troopers to administer the law were there a violation.

MR. GOODRUM noted only a trooper or a peace officer would be authorized to issue citations based upon regulations.

CO-CHAIR JOSEPHSON, in order to provide an example of a bail schedule, read from a schedule of penalties for KRPUA in Alaska Rules of Court 2016-2017 Edition, Rules of Administration, Rule 43.10 as follows:

If you leave a vehicle unattended for more than 72 hours, you can be fined \$300. ... If you discharge a firearm at an unauthorized target, you could be charged \$50.

[7:03:50 PM](#)

REPRESENTATIVE TALERICO pointed out Amendment 2 also states a person is "guilty of a violation as defined in AS 11.81.900." If the violations are already well-defined in statute and identified in the bill, additional language may be redundant.

CO-CHAIR JOSEPHSON advised AS 11.81.900 is a blanket definition of a violation and does not describe penalties.

MR. GOODRUM stated Co-Chair Josephson is correct.

CO-CHAIR JOSEPHSON remarked:

The concern I had ... [the bill] seemed to say, "Whatever you do in Jonesville, unless it's arson, is fine." ... It couldn't have meant that. ... It's been fixed to my satisfaction ....

[7:06:10 PM](#)

CO-CHAIR TARR removed her objection. There being no further objection, Amendment 2 was adopted.

CO-CHAIR JOSEPHSON announced the amendment labeled 30-LS0105\D.6, Shutts\Bullard, 2/3/17, would not be offered.

[7:07:35 PM](#)

The committee took a brief at ease.

[7:07:54 PM](#)

REPRESENTATIVE RAUSCHER moved to adopt Amendment 3, labeled 30-LS0105\D.5, Bullard, 1/31/17, which read as follows:

Page 4, following line 27:  
Insert new material to read:  
"Section 9: All"

Page 5, line 7, following "SW1/4NW1/4":  
Insert ";"

Page 5, line 8:  
Delete all material.

CO-CHAIR JOSEPHSON objected for discussion purposes.

REPRESENTATIVE RAUSCHER said that Amendment 3 would correct two errors in the land description of the affected area. In the bill as written, [on page 4, lines 27 and 28] the property description mistakenly omitted Section 9, although Section 9 was to be included. In addition, the amendment deletes Section 21, which was included [in error] on page 5, line 8, of the original version of the bill.

CO-CHAIR JOSEPHSON asked Mr. Goodrum to explain why Section 21 is deleted and why Sections 22 through 30 are not included in the land description.

MR. GOODRUM said that the inclusion of Section 9 is necessary to make the unit "a whole unit." He advised Section 21 is one of the exterior sections in the area, and if the sponsor wishes to delete this section the department is not opposed, provided it is a contiguous block.

[7:11:06 PM](#)

The committee took a brief at ease.

[7:11:55 PM](#)

CO-CHAIR JOSEPHSON removed his objection to Amendment 3 and there being no further objection, Amendment 3 was adopted.

[7:12:52 PM](#)

CO-CHAIR JOSEPHSON moved to adopt Amendment 4, labeled 30-LS0105\D.7, Wallace/Bullard, 2/3/17, which read as follows:

Page 2, line 3, following "Area":  
Insert "in a manner compatible with this section"

CO-CHAIR TARR objected for discussion purposes.

CO-CHAIR JOSEPHSON explained Amendment 4 assures that any continued motorized access for miners and owners of private property would be done in a compatible way. However, Amendment 3 retains similar language in [subparagraph] (B), which is now [subparagraph] (C).

[7:13:55 PM](#)

The committee took a brief at ease.

[7:14:01 PM](#)

CO-CHAIR JOSEPHSON withdrew Amendment 4. He announced the amendment labeled 30-LS0105\D.8, Wallace/Bullard, 2/3/17 would not be offered.

[7:14:12 PM](#)

CO-CHAIR JOSEPHSON moved to adopt Amendment 5, labeled 30-LS0105\D.10, Bruce/Bullard, 2/3/17 which read as follows:

Page 3, line 22:  
Delete "off-road"  
Insert "all-terrain"

Page 3, line 25:  
Delete "in a way that minimizes"  
Insert "to correct existing damage and to minimize future"

Page 3, lines 25 - 26:  
Delete "maintain and enhance off-road motor vehicle options and opportunities in the Jonesville Public Use Area,"

CO-CHAIR TARR objected for discussion purposes.

CO-CHAIR JOSEPHSON expressed his intent to omit lines 1-3 of the amendment.

CO-CHAIR TARR offered Conceptual Amendment 1, to delete lines 1-4 of Amendment 5.

REPRESENTATIVE RAUSCHER asked for clarification.

CO-CHAIR TARR restated Conceptual Amendment 1 deletes lines 1-4 of Amendment 5. There being no objection, Conceptual Amendment 1 was adopted.

CO-CHAIR JOSEPHSON, speaking to Amendment 5, as amended, pointed out that there is no funding for any of the provisions in HB 6. However, there is existing damage to the area that should be mitigated and corrected through the management plan when appropriate, based on available resources, and to minimize future damage.

[7:19:38 PM](#)

The committee took a brief at ease.

[7:19:42 PM](#)

CO-CHAIR TARR offered Conceptual Amendment 2, to delete lines 8-11 of Amendment 5, as amended. If adopted, lines 5-8 of Amendment 5 would remain for consideration.

REPRESENTATIVE RAUSCHER objected for discussion purposes.

CO-CHAIR TARR expressed her understanding that off-road motor vehicle options are existing uses within a public use area, thus deleting the aforementioned language would not interfere with traditional uses of the area.

REPRESENTATIVE RAUSCHER removed his objection, and there being no further objection, Conceptual Amendment 2 was adopted.

CO-CHAIR JOSEPHSON said that Amendment 5, as amended, was before the committee.

REPRESENTATIVE RAUSCHER directed attention to line 7 that adds "to correct existing damage [and] to minimize future damage." He asked for clarification as to what extent correct existing damage would be defined - and the effect of the added language on the management plan - and asked for an opinion from DNR.

CO-CHAIR JOSEPHSON observed that Representative Rauscher's concern could also apply to "shall conduct trail rehabilitation," and asked DNR whether there was some correction of existing damage at KRPUA.

[7:24:44 PM](#)

MR. GOODRUM noted the proposed management plan will have many considerations, and opined the current bill would have the management plan address the area in its present condition. The amendment adds correcting existing damage and minimizing future damage, and would add another layer to what needs to be considered, defined, and resourced within the management plan. He acknowledged there were efforts to improve trail access in KRPUA, which has been accomplished by working with partner groups and users of the area, as well as with assistance from the legislature.

CO-CHAIR JOSEPHSON inquired as to whether the department holds a neutral position on the amendment.

MR. GOODRUM said, "... it's not very clear."

REPRESENTATIVE BIRCH stated his concern about falsely raising expectations by inserting "to correct existing damage." Further, the existing language "in a way that minimizes" speaks to the effort of the bill, without a cost component, and is well-intended. He cautioned that the amendment implies there is a major effort underway to correct existing damage.

REPRESENTATIVE JOHNSON noted the bill has no opposition and reflects years of work. She questioned the purpose of the amendment.

CO-CHAIR JOSEPHSON stated he has been told that the area is seriously damaged and the intent of the amendment is to correct existing damage and minimize future damage.

[7:29:15 PM](#)

REPRESENTATIVE PARISH pointed out the bill includes trail rehabilitation, which implies repair and correcting existing damages.

CO-CHAIR TARR asked Mr. Goodrum whether any of the existing damage presents a health and safety concern, and if the amendment is needed to ensure correction.

MR. GOODRUM supported Representative Parish's remarks about trail rehabilitation; in fact, the planning effort with the community, stakeholders, and users will define the most critical issues, and health and safety issues will be one of the most important, as is the intent of DNR.

REPRESENTATIVE TALERICO noted that the community of Sutton has provided a lot of information and participation in the project, which will continue with the development of the management plan. He stressed the vision and wishes of the local community will provide a management plan well-suited for the area and which would remove the hazards, and concluded Amendment 5 is unnecessary.

REPRESENTATIVE RAUSCHER said that for a long time the community of Sutton has spent time and money working very hard on this area, along with local businesses that have donated equipment and time. A playground was built by the community with \$150,000 of donated materials. He cautioned against amending the bill to the point a fiscal note is required, which would jeopardize the bill. Representative Rauscher assured the committee the community of Sutton will deal with the project "in a manner that you will be proud of."

CO-CHAIR JOSEPHSON remarked:

I would note for the record, there is no fiscal note. ... [The departments have] already testified that they're not going to do anything. ... I've contemplated that we should consider signing a letter of intent that this be funded, and I may take this up in the subcommittee ....

[For clarification to the reader: There were three zero fiscal notes attached to HB 6 labeled, Identifier: HB006-DFG-COM-01-21-2017, Identifier: HB006-DPS-AST-01-21-17, and Identifier: HB006-DPS-AWT-01-21-17.]

CO-CHAIR JOSEPHSON restated that the bill is not funded and already has a need for funding; he was not trying to redirect the bill.

[7:36:29 PM](#)

A roll call vote was taken. Representatives Tarr and Josephson voted in favor of Amendment 5, as amended. Representatives Westlake, Drummond, Parish, Birch, Johnson, Rauscher, and Talerico voted against it. Therefore, Amendment 5, as amended, failed by a vote of 2-7.

[7:37:50 PM](#)

The committee took a brief at ease.

[7:39:14 PM](#)

CO-CHAIR JOSEPHSON moved to adopt Amendment 6, labeled 30-LS0105\D.14, Bullard, 2/15/17, which read as follows:

Page 3, line 17:

Delete all material.

Insert "(B) include operating all-terrain vehicles on trails designated or constructed for their use, aircraft, and watercraft,"

Page 3, line 20, following "photography,":

Insert "berry picking,"

Page 3, line 21, following the first occurrence of "and":

Insert "lawful"

REPRESENTATIVE RAUSCHER objected for discussion purposes.

CO-CHAIR JOSEPHSON said that the bill, as written [on page 3, lines 13-17], directs that the commissioner shall allow the use of all-terrain vehicles, aircraft, and watercraft.

REPRESENTATIVE JOHNSON asked for clarification of "Delete all material."

CO-CHAIR JOSEPHSON answered that in Version D, on page 3, line 17 would be deleted. He returned attention to Amendment 6 and said he has heard from nearby residents that some would prefer to see ATVs used in areas that are specially designated or constructed for that purpose, thus the first part of Amendment 6 would focus on not allowing ATV use everywhere in the Jonesville Public Use Area.

REPRESENTATIVE RAUSCHER offered Conceptual Amendment 1 with the purpose to separate lines 1-4 of Amendment 6 from lines 5-10.

[The committee treated Conceptual Amendment 1 as withdrawn.]

[7:44:15 PM](#)

The committee took an at ease from 7:44 p.m. to 7:46 p.m.

[7:46:36 PM](#)

REPRESENTATIVE JOHNSON asked for clarification of the word "lawful" as shown on line 10 of Amendment 6.

CO-CHAIR JOSEPHSON responded that throughout the bill the phrase used is "permitted mines," thus Amendment 6 seeks to ensure any mining that occurs would be lawful mining.

REPRESENTATIVE PARISH suggested that the committee focus its efforts on lines 1-4 of the amendment since the remainder meets the sponsor's approval.

REPRESENTATIVE WESTLAKE opined "lawful" and "permitted" are the same thing.

CO-CHAIR JOSEPHSON explained some mining does not require a permit, and the amendment is intended to be mining-friendly.

REPRESENTATIVE JOHNSON asked for an opinion from DNR.

MR. GOODRUM said he did not have Amendment 6. He directed attention to the bill on page 3, line 13, and said any activities allowed, permitted, or authorized by DNR need to be a lawful activity, and consistent with statute and regulation.

[7:49:47 PM](#)

REPRESENTATIVE TALERICO offered a conceptual amendment that would add "or areas" after the word "trails" on line 3.

CO-CHAIR TARR objected for discussion purposes.

CO-CHAIR JOSEPHSON stated [Conceptual Amendment 2] would read, "The commissioner shall allow the Jonesville Public Use Area to be used for activities that include operating all-terrain vehicles on trails or areas designated or constructed for their use, aircraft, and watercraft." He asked for an opinion from DNR.

MR. GOODRUM said the management plan will be a challenging process, and advised the additional language narrows the solutions to be achieved through the management plan. Through the management plan, DNR will engage with stakeholders and the public about what is most important for the residents in the area, and he urged the committee to leave some flexibility, and thereby, the ability for the public process to strive for solutions.

CO-CHAIR JOSEPHSON pointed out at public hearings, user groups or individuals can express their preference for one use over another, and DNR "might, at your discretion, so designate."

[7:54:14 PM](#)

MR. GOODRUM explained that the use of the word "and" means [trails and areas] would need to be designated and probably originally constructed for that specific use; many of the activities that currently take place within the Jonesville area occur by happenstance, and the current trails were constructed without a specific purpose. He suggested the word "and" may complicate the planning efforts.

REPRESENTATIVE PARISH pointed out the actual language in the amendment is not "and" but is "or."

MR. GOODRUM acknowledged "or" is a better word; he restated that every addition further constricts solutions that can be achieved through the management plan.

REPRESENTATIVE TALERICO, returning attention to the intent of Conceptual Amendment 2, said during testimony he heard that the area has been traditionally used by residents who are learning to operate an ATV. Trails have a designation, however, speaking from his experience, if the management plan seeks to include ATV use, he advised that an area clear of trees and cars is needed for those learning to operate an ATV.

REPRESENTATIVE RAUSCHER described a large parcel in the Jonesville mine area of reclaimed coal [mine] flat land used for recreational vehicle parking and ATVs. He cautioned that this is a big challenge for the management of the public use area (PUA), and the local community is not looking for a four-wheeler playground, which is what is there now, but must consider all of the recreation listed in the bill. Recently, the community renovated a hiking trail at a cost of \$95,000, and Representative Rauscher said the community needs latitude in the PUA and the management plan.

CO-CHAIR TARR questioned whether Mr. Goodrum advised adding "or areas" would make it more difficult to achieve hoped-for solutions.

[8:00:07 PM](#)

MR. GOODRUM answered he was previously speaking to the amendment labeled 30-LS0105\D.9, and not to Conceptual Amendment 2. In speaking to Conceptual Amendment 2 to Amendment 6, he said that although he agrees that the language of "or areas" in the conceptual amendment is helpful, he cautioned the committee against the use of prescriptive language in the legislation.

[8:01:32 PM](#)

CO-CHAIR TARR removed her objection. There being no further objection, Conceptual Amendment 2 to Amendment 6 was adopted.

REPRESENTATIVE JOHNSON objected to Amendment 6, as amended.

[8:02:07 PM](#)

A roll call vote was taken. Representatives Talerico, Westlake, Drummond, Parish, Birch, Johnson, Rauscher, Tarr, and Josephson voted in favor of Amendment 6, as amended. Therefore, Amendment 6, as amended, was adopted by a vote of 9-0.

CO-CHAIR JOSEPHSON announced HB 6, as amended, was before the committee.

REPRESENTATIVE JOHNSON stated her support for the bill, and commended the community of Sutton on its "labor of love."

REPRESENTATIVE RAUSCHER expressed his appreciation for the hard work and effort of the committee, staff, all who testified, and the community of Sutton.

REPRESENTATIVE PARISH stated his support for the bill and said HB 6 is an example of a legitimate reason for government "to step in and provide some services which, which haven't been happening."

[8:05:55 PM](#)

CO-CHAIR TARR moved to report HB 6, as amended, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSHB 6(RES) was reported out of the House Resources Standing Committee.

[8:06:32 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 8:06 p.m.