

Original sponsor: Resources Committee

Offered: 6/9/78  
Referred: Rules

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 562

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Alaska land policy and creating the  
7 Wood-Tikchik State Park; and providing for an effective  
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. PURPOSE. Alaska's Constitution directs that the state  
11 "encourage the settlement of its land and the development of its resources by  
12 making them available for maximum use consistent with the public interest"  
13 (art. VIII, sec. 1), and to "provide for the utilization, development, and  
14 conservation of all natural resources belonging to the State, including land  
15 and waters, for the maximum benefit of its people" (art. VIII, sec. 2). The  
16 constitution also directs that "Fish, forests, wildlife, grasslands, and all  
17 other replenishable resources belonging to the State shall be utilized,  
18 developed, and maintained on the sustained yield principle, subject to pre-  
19 ferences among beneficial uses" (art. VIII, sec. 4). The purpose of sec. 2  
20 of this Act is to implement these broad constitutional goals through estab-  
21 lishment of policies for use of state land surface and to express these  
22 policies in sufficient detail to guide the administrative decisions which  
23 govern the use and management of state-owned land.

24 \* Sec. 2. AS 38 is amended by adding a new chapter to read:

25 CHAPTER 4. POLICY FOR USE AND CLASSIFICATION  
26 OF STATE LAND SURFACE.

27 ARTICLE 1. PUBLIC AND PRIVATE LAND USE.

28 Sec. 38.04.005. POLICY. (a) In order to provide for maximum use  
29 of state land consistent with the public interest, it is the policy of

1 the State of Alaska to plan and manage state-owned land to establish a  
2 balanced combination of land available for both public and private  
3 purposes. The choice of land best suited for public and private use  
4 shall be determined through the inventory, planning, and classification  
5 processes set out in secs. 50 and 60 of this chapter.

6 (b) In classifying state land for private use and settlement  
7 purposes, the director shall make adequate provision for public open  
8 space which is accessible to communities so that natural areas are  
9 easily reached from all communities and settled areas. The amount of  
10 such land shall be sufficient to meet existing and projected needs for  
11 accessible public recreation land. Special care shall be taken to  
12 preserve public access to public water and to retain state ownership of  
13 sufficient land which combine high value for recreation and other public  
14 purposes with accessibility to settled areas. This classification for  
15 public purposes does not constitute dedication to open space, but the  
16 division's management of land so classified shall be in a manner to  
17 preserve the identified values.

18 (c) In allocating land for private use and public retention, the  
19 requirements of future generations shall be considered. To this end, a  
20 supply of state land of a variety of types and locations shall be re-  
21 served to provide an opportunity for future decisions.

22 (d) Private land use rights are integral to the material well-  
23 being of the people of Alaska and our society.

24 (e) The allocation of state land for private use and public re-  
25 tention shall be made with due regard to the right of municipalities to  
26 receive land entitlements under existing law. The allocation of land  
27 for use may not jeopardize these entitlements. The involvement of  
28 municipalities, through local elected officials and planning commis-  
29 sions, and local residents is essential to the decision-making process

1 which leads to making state land available for municipal and private  
2 use.

3 Sec. 38.04.010. PUBLIC INTEREST IN MAKING LAND AVAILABLE FOR  
4 PRIVATE USE. The primary public interest in conveying rights to state  
5 land surface to private parties is to make them available to individuals  
6 and other persons for direct use in areas classified as suitable for  
7 these purposes.

8 Sec. 38.04.015. PUBLIC INTEREST IN RETAINING STATE LAND IN PUBLIC  
9 OWNERSHIP. The primary public interests in retaining areas of state  
10 land surface in public ownership are:

11 (1) to make them available on a sustained-yield basis for a  
12 variety of beneficial uses including subsistence, energy development,  
13 aquaculture, forestry, grazing, sport hunting and fishing, hiking,  
14 snowmobiling, skiing, and other activities of a type which can generally  
15 be made available to more people and conducted more successfully if the  
16 land is in public rather than private ownership;

17 (2) to facilitate mining and mineral leasing by managing  
18 appropriate public land for surface uses which are compatible with  
19 subsurface uses;

20 (3) to protect critical wildlife habitat and areas of special  
21 scenic, recreational, scientific, or other environmental concern;

22 (4) to restrict development in hazardous locations such as  
23 flood plains and avalanche zones; and

24 (5) to guide the location of settlement and development to  
25 minimize public costs and maximize social and economic benefits.

26 ARTICLE 2. LAND AVAILABILITY FOR PRIVATE USE.

27 Sec. 38.04.020. VARIETY OF USES. In making state land available  
28 for private use, the director shall endeavor to accommodate persons with  
29 a current need and anticipated use for the land. To this end, the

1 director shall assess the nature of the supply and demand for state land  
2 in different regions and locations of the state, taking into account the  
3 supply of available land under other ownership, and shall make land  
4 available in locations and under programs suited to the differing needs  
5 of prospective users throughout the state.

6 Sec. 38.04.025. LAND AVAILABILITY PROGRAMS. Programs which may be  
7 used by the director to make the state's land surface available for  
8 private use under this section include sale of whole or partial rights  
9 to the fee simple estate, including conveyance of agricultural use  
10 rights; leasing; open-to-entry; homesiting; homesteading; permitting for  
11 construction and occupation of cabins in isolated locations on land  
12 retained in state ownership; and other methods as provided by law.

13 Sec. 38.04.030. CRITERIA FOR PROGRAM SELECTION. In determining  
14 which land availability program is appropriate for state lands in dif-  
15 ferent locations, the director shall be guided by the following cri-  
16 teria:

17 (1) To cover public costs associated with private land use  
18 and to provide the public with a fair return for publicly owned pro-  
19 perty, conveyance of state land to private parties should be at fair  
20 market value except where otherwise authorized by statute, or by an  
21 administrative regulation the adoption of which is specifically per-  
22 mitted by statute.

23 (2) Sale or lease programs should be used where land is  
24 readily accessible to a major community center or where, because of a  
25 prime location on waterfront or a transportation route or some other  
26 location characteristic, land has relatively high real estate value.  
27 The department shall make adequate reservation for public rights-of-way  
28 before sale or lease programs are utilized.

29 (3) Sale programs are preferred except lease programs should

1 be used

2 (A) where special land use controls are required and  
3 there is a high public interest in having certain types of land  
4 used for particular purposes;

5 (B) when the intended use is a temporary one;

6 (C) in commercial or industrial situations when a lease-  
7 hold can provide cash flow advantages to the lessee; and

8 (D) when a unique location with special public values is  
9 involved, as in a deep water port, hydroelectric site or aquacul-  
10 ture facility.

11 (4) For enabling isolated cabin development in remote loca-  
12 tions where survey and conveyance is impractical, a system for cabin  
13 permits on public land may be used.

14 (5) Limited or conditional title may be granted when the  
15 state's best interest so dictates. Among other things, title limita-  
16 tions may include grants of agricultural interest only, retention of  
17 development rights, and retention of scenic or other easements. A  
18 conditional title may be tied to a development schedule or other stan-  
19 dards of performance.

20 Sec. 38.04.035. SURVEY AND SUBDIVISION. (a) State land to be  
21 conveyed in fee simple or less than fee simple estate shall be sub-  
22 divided so that lots and tracts are of a size which fits the require-  
23 ments of individual users and reflects the physical characteristics of  
24 the land, except that in locations where there is an inadequate margin  
25 between the demand for and the supply of vacant land, the state may make  
26 land available for private acquisition in parcels that are larger than  
27 required for individual use.

28 (b) Before the conveyance of surface rights to state land, an  
29 official cadastral survey shall be accomplished, unless a comparable,

1 acceptable survey exists that has been conducted by the Federal Bureau  
2 of Land Management. The rectangular survey section corner positions  
3 shall be monumented and shown on a cadastral survey plat approved by the  
4 state. However, for those areas where the state may wish to convey  
5 surface estate outside of an Official Cadastral Survey grid, the direc-  
6 tor may waive monumentation of all individual section corner positions  
7 and substitute an official control survey with control points being  
8 monumented at approximately two-mile intervals and shown on control  
9 survey plats approved by the state. No portion of land to be conveyed  
10 may be located more than two miles from such a survey control monument.  
11 The lots and tracts in state subdivisions shall be monumented and the  
12 cadastral survey and plats for the subdivision shall be approved by the  
13 state. Where land is located within a municipality with planning,  
14 platting, and zoning powers, plats for state subdivisions shall comply  
15 with local ordinances and regulations in the same manner and to the same  
16 extent as plats for subdivisions by other landowners, except as other-  
17 wise provided by law. State subdivisions shall be filed in the district  
18 recorder's office. The requirements of this section do not apply to  
19 land made available through a cabin permit system, material sales, or  
20 short-term leases; however, for short-term leases the lessee must comply  
21 with local subdivision ordinances unless waived by the municipality  
22 under procedures specified by ordinance.

23 Sec. 38.04.040. ACCESS TO PRIVATE USE AREAS. Wherever state land  
24 is surveyed for purposes of private use, adequate rights-of-way and  
25 easements shall be reserved as necessary for access and, where appro-  
26 priate, for power and telephone service to each parcel of land. Where  
27 necessary and appropriate for the use intended, the director shall  
28 arrange for the development of surface access as part of the land avail-  
29 ability program. The direct cost of local access development shall be

1 borne by the recipient of the land unless otherwise provided by state  
2 statutes or regulations.

3 Sec. 38.04.045. ACCESS THROUGH PRIVATE USE AREAS. The director  
4 shall reserve easements and rights-of-way on and across land which is  
5 made available for private use as necessary to reach or use public water  
6 and public and private land.

7 ARTICLE 3. INVENTORY, PLANNING, AND CLASSIFICATION.

8 Sec. 38.04.050. INVENTORY. (a) The commissioner shall prepare  
9 and maintain on a continuing basis an inventory of all state land and  
10 water and their resource and other values, giving priority to areas of  
11 potential settlement and of critical environmental concern. This in-  
12 ventory shall be kept current so as to reflect changes in conditions and  
13 to identify new and emerging resource and other values.

14 (b) The commissioner's inventory shall include land and water  
15 under interagency assignment of land management authority and land and  
16 water proposed for such an assignment. That land and water must be  
17 reviewed at regular intervals to analyze current and proposed uses as  
18 these uses relate to alternative uses for all or part of the land and to  
19 determine the uses which best provide for the public interest.

20 (c) As funds and manpower are made available, the commissioner  
21 shall provide local and federal governments and major private landowners  
22 with data from the inventory for the purpose of planning and managing  
23 the uses of land in proximity to state land.

24 Sec. 38.04.055. LAND USE PLANNING AND CLASSIFICATION. (a) The  
25 commissioner shall, with local governmental and public involvement in  
26 accordance with AS 38.05.305, develop, maintain and, when appropriate,  
27 revise land use plans which provide, by regions or areas, for the use of  
28 the state-owned land.

29 (b) In the development and revision of land use plans, the commis-

1 sioner shall

2 (1) use and observe the principles of multiple use and sus-  
3 tained yield;

4 (2) consider physical, economic, and social factors affecting  
5 the region or area and involve other agencies and the public in  
6 achieving a systematic interdisciplinary approach;

7 (3) give priority to planning and classification in areas of  
8 potential settlement and critical environmental concern;

9 (4) rely, to the extent that it is available, on the inven-  
10 tory of the state land, its resources, and other values;

11 (5) consider present and potential uses of state land;

12 (6) consider the supply, resources, and present and potential  
13 use of land under other ownership within the area or region of concern;

14 (7) plan for compatible surface and mineral land use classi-  
15 fications; and

16 (8) provide for meaningful participation in the planning  
17 process by affected local governments, state and federal agencies,  
18 adjacent landowners, and the general public.

19 (c) As a basis for more detailed land use planning and classifi-  
20 cation, the commissioner shall develop regional land use plans for the  
21 use of all state land. These regional plans shall identify and de-  
22 lineate

23 (1) areas of settlement and settlement impact, where land  
24 must be classified for various private uses and for public recreation,  
25 open space, and other public uses desirable in and around settlement;  
26 and

27 (2) areas which must be retained in state ownership and  
28 planned and classified for various uses and purposes in accordance with  
29 sec. 15 of this chapter.

1 (d) Official regional or area plans and subsequent amendments  
2 adopted by the commissioner after public and local governmental parti-  
3 cipation shall be signed and dated by the commissioner. Land classifi-  
4 cations shall be made in accordance with these official plans.

5 (e) Land shall be classified as provided in AS 38.05.300.

6 (f) Decisions about the location of easements and rights-of-way,  
7 other than for minor access, shall be integrated with land use planning  
8 and classification for the appropriate area or region.

9 (g) Land use plans adopted by the commissioner under this section  
10 shall be consistent with local governmental land use and comprehensive  
11 plans.

12 Sec. 38.04.060. MANAGEMENT CATEGORIES. (a) State land classified  
13 for uses and purposes involving retention in public ownership may be  
14 included in the following management categories:

15 (1) State Public Reserve Land: areas of public land to be  
16 managed for a wide variety of compatible uses and purposes in accordance  
17 with the principles of multiple use and sustained yield; land designated  
18 to this category may include, but need not be limited to, state forest  
19 reserves and state wildlife reserves as well as land classified for  
20 public purposes within settlement impact areas;

21 (2) State Parks: areas with special recreational, scenic,  
22 cultural, historical, wilderness, or similar values, to be managed  
23 primarily for the public use and enjoyment of these values;

24 (3) State Public Domain: land within areas designated on  
25 regional plans as settlement and settlement impact which are not part of  
26 the management categories listed in (1) and (2) of this subsection;  
27 through classification, this land may be made available for private use,  
28 settlement, and development as well as for public uses associated with  
29 settlement and development.

1 (b) State land classified in accordance with sec. 55 of this  
2 chapter may be included as state public reserve lands by proclamation of  
3 the governor.

4 ARTICLE 4. GENERAL PROVISIONS.

5 Sec. 38.04.900. REGULATIONS. (a) The commissioner may adopt  
6 under the Administrative Procedure Act (AS 44.62) regulations he be-  
7 lieves are necessary to carry out the purposes of this chapter. Within  
8 120 days after the effective date of this Act, the director shall submit  
9 to the commissioner draft regulations implementing this chapter and  
10 revising regulations in effect on the effective date of this Act per-  
11 taining to planning, classification, management, and disposal of the  
12 state's surface estate in land. New and revised regulations shall be  
13 integrated in a single comprehensive draft compatible with the structure  
14 of the Alaska Administrative Code. In preparing this draft, the  
15 director shall seek to simplify and clarify regulations governing land  
16 planning, classification, management, and disposal.

17 (b) A municipality has standing to petition the commissioner for  
18 the adoption of a regulation, or for the amendment or repeal of an  
19 existing regulation, or to appeal a decision of the commissioner with  
20 respect to classification, management, or disposal of land made under  
21 authority of a regulation adopted under (a) of this section with respect  
22 to state land outside the corporate boundaries of the municipality to  
23 protect any interest which the municipality is authorized to regulate  
24 outside its boundaries under AS 29.48.037.

25 (c) If the regulations adopted by the commissioner under (a) of  
26 this section fail to provide for a process by which decisions of the  
27 commissioner may be appealed, an interested person may petition for re-  
28 consideration of a decision. The petition shall contain the information  
29 required to be submitted by AS 44.62.220 and shall be acted upon by the

1 commissioner in the manner provided in AS 44.62.230. For purposes of  
2 this section, a municipality is an interested person with respect to its  
3 interests in land defined in (b) of this section.

4 Sec. 38.04.910. DEFINITIONS. In this chapter, unless the context  
5 otherwise requires,

6 (1) "commissioner" means the commissioner of the Department  
7 of Natural Resources;

8 (2) "director" means the director of the division of lands of  
9 the Department of Natural Resources;

10 (3) "fair market value" means the price at which a willing  
11 seller and a willing buyer will trade;

12 (4) "multiple use" means the management of state land and its  
13 various resource values so that it is used in the combination that will  
14 best meet the present and future needs of the people of Alaska, making  
15 the most judicious use of the land for some or all of these resources or  
16 related services over areas large enough to provide sufficient latitude  
17 for periodic adjustments in use to conform to changing needs and condi-  
18 tions; it includes

19 (A) the use of some land for less than all of the re-  
20 sources, and

21 (B) a combination of balanced and diverse resource uses  
22 that takes into account the short-term and long-term needs of  
23 present and future generations for renewable and nonrenewable  
24 resources, including, but not limited to, recreation, range, tim-  
25 ber, minerals, watershed, wildlife and fish, and natural scenic,  
26 scientific, and historic values;

27 (5) "official cadastral survey" means a United States public  
28 land survey or a survey executed under survey instructions issued by the  
29 division for the purpose of preparing a cadastral survey plat, and

1 approved and accepted by the division for the state's official records;

2 (6) "official control survey" means a position marked on the  
3 ground by triangulation or traverse stations established in conformity  
4 with standards adopted by United States Coastal and Geodetic Survey for  
5 first, second and third order work, whose geodetic positions have been  
6 rigidly adjusted on the North American datum of 1927 and approved by the  
7 division;

8 (7) "short-term lease" means a lease for a term of five years  
9 or less;

10 (8) "state park" means an area of state land designated by  
11 law to be managed for public use and enjoyment of recreational, scenic,  
12 cultural, historical, wilderness, and similar values, including but not  
13 limited to areas designated under

14 (A) AS 41.20.050 - 41.20.060, roadside rests and recrea-  
15 tional beaches;

16 (B) AS 41.20.130 - 41.20.160, 41.20.330 - 41.20.345, ch.  
17 61 SLA 1966, and ch. 26 SLA 1967, state recreation areas;

18 (C) AS 41.20.170 - 41.20.320, state parks; and

19 (D) AS 41.35.030, state monuments and historic sites;

20 (9) "sustained yield" means the achievement and maintenance  
21 in perpetuity of a high level annual or regular periodic output of the  
22 various renewable resources of the state lands consistent with multiple  
23 use.

24 \* Sec. 3. AS 41.20 is amended by adding new sections to read:

25 ARTICLE 3. WOOD-TIKCHIK STATE PARK.

26 Sec. 41.20.460. DECLARATION OF PURPOSE. The purpose of secs.  
27 460 - 490 of this chapter is to establish the state-owned land and water  
28 areas described in sec. 470 of this chapter as the Wood-Tikchik State  
29 Park. The primary purposes of creating the Wood-Tikchik State Park are

1 to protect the area's fish and wildlife breeding and support systems and  
2 to preserve the continued use of the area for subsistence and recrea-  
3 tional activities. The state park is also created to protect the area's  
4 recreational and scenic resources. Sections 460 - 490 of this chapter  
5 are intended to close the described land and water to multiple-purpose  
6 use in conformity with AS 38.05.300 and to dedicate them as a special  
7 purpose site in accordance with art. VIII, sec. 7 of the Constitution of  
8 the State of Alaska.

9 Sec. 41.20.470. DESIGNATED STATE LAND AND WATER. (a) The state-  
10 owned or acquired land and water lying within the following parcel,  
11 containing approximately 1,428,320 acres, is designated as the Wood-  
12 Tikchik State Park: beginning at the SE corner of T7S, R54W, S.M.,  
13 which is the true point of beginning; thence westerly to the NE corner  
14 of T8S, R58W, S.M.; thence southerly to the SE corner of T8S, R58W,  
15 S.M.; thence westerly to the SW corner of T8S, R58W, S.M.; thence nor-  
16 therly to the NW corner of T5S, R58W, S.M.; thence westerly to the SW  
17 corner of Section 34, T4S, R58W, S.M.; thence northerly to the NE corner  
18 of Section 4, T1S, R58W, S.M.; thence westerly to the SW corner of T1N,  
19 R57W, S.M.; thence northerly to the NW corner of T2N, R57W, S.M.; thence  
20 easterly to the NE corner of T2N, R57W, S.M.; thence northerly to the NW  
21 corner of T4N, R56W, S.M.; thence easterly to the SW corner of T5N,  
22 R55W, S.M.; thence northerly to the NW corner of T5N, R55W, S.M.; thence  
23 easterly to the NE corner of T5N, R55W, S.M.; thence southerly to the SE  
24 corner of T5N, R55W, S.M.; thence easterly to the NE corner of T4N,  
25 R54W, S.M.; thence southerly to the SE corner of T4N, R54W, S.M.; thence  
26 easterly to the NE corner of T3N, R53W, S.M.; thence southerly to the SE  
27 corner of T3N, R53W, S.M.; thence easterly to the NE corner of T2N,  
28 R52W, S.M.; thence southerly to the SW corner of T1N, R51W, S.M.; thence  
29 easterly to the NE corner of T1S, R52W, S.M.; thence southerly to the SE

1 corner of T2S, R52W, S.M.; thence easterly to the NE corner of T3S,  
2 R51W, S.M.; thence southerly to the SE corner of T3S, R51W, S.M.; thence  
3 westerly to the NE corner of T4S, R53W, S.M.; thence southerly to the SE  
4 corner of T4S, R53W, S.M.; thence westerly to the NE corner of T5S,  
5 R53W, S.M.; thence southerly to the SE corner of T7S, R54W, S.M., which  
6 point is the true point of beginning.

7 (b) All or part of the state-owned or acquired land and water  
8 within the following adjacent parcel, containing approximately 126,720  
9 acres may be added to the Wood-Tikchik State Park by proclamation of the  
10 governor: beginning at the SE corner of T7S, R54W, S.M., which point is  
11 the true point of beginning; thence southerly to the SE corner of T8S,  
12 R54W, S.M.; thence westerly to the NE corner of T9S, R55W, S.M.; thence  
13 southerly to the SE corner of the NE quarter of T9S, R55W, S.M.; thence  
14 westerly to the SW corner of the NW quarter of T9S, R57W, S.M.; thence  
15 northerly to the NW corner of T9S, R57W, S.M.; thence westerly to the SE  
16 corner of T8S, R58W, S.M.; thence northerly to the NE corner of T8S,  
17 R58W, S.M.; thence easterly to the SE corner of T7S, R54W, S.M., which  
18 point is the true point of beginning.

19 (c) Land lying within the parcels described in (a) or (b) of this  
20 section, upon which there are valid entries, or which is withdrawn for  
21 or selected by Native village or regional corporations under secs. 11,  
22 12, and 14 of the Alaska Native Claims Settlement Act (P.L. 92-203; 85  
23 Stat. 688; 43 U.S.C. 1601 et. seq.), is excepted from (a) and (b) of  
24 this section; however, if any land excepted under this subsection is  
25 subsequently relinquished to the state, it shall be included as part of  
26 the Wood-Tikchik State Park.

27 Sec. 41.20.480. DESIGNATION OF MANAGEMENT RESPONSIBILITY AND  
28 CRITERIA. (a) The land and water described in sec. 470 of this chapter  
29 is assigned to the Department of Natural Resources for control, main-

1           tenance and development consistent with the purposes and provisions of  
2           this chapter. The Department of Fish and Game is responsible for the  
3           management of fish and game resources in the Wood-Tikchik State Park,  
4           consistent with the purposes and provisions of this chapter.

5           (b) A seven-member Wood-Tikchik State Park Management Council is  
6           created and shall be appointed by the governor. Management council  
7           members may, subject to appropriations, receive the same per diem and  
8           travel expenses authorized for members of state boards. The governor  
9           shall appoint one member of the council from three nominations submitted  
10          to him by each of the following:

- 11                   (1) the village council of Koliganek;
- 12                   (2) the village council of New Stuyahok;
- 13                   (3) the village council of Alegnagik;
- 14                   (4) the city council of Dillingham;
- 15                   (5) the Bristol Bay Native Association, Inc.;
- 16                   (6) the commissioner of natural resources;
- 17                   (7) the commissioner of fish and game;

18          (c) The Wood-Tikchik State Park Management Council shall develop  
19          a management plan for the park with the advice and assistance of the  
20          Department of Natural Resources. The management plan shall be presented  
21          at a public meeting before approval and implementation.

22          (d) The Department of Natural Resources shall consult with  
23          Department of Fish and Game and the management council before adoption  
24          of regulations governing the public use of the park. The Department of  
25          Fish and Game shall consult with the Department of Natural Resources and  
26          the management council before adoption of regulations governing fish and  
27          wildlife management in the park. No regulations may be adopted by  
28          either department without prior review at public hearings.

29          (e) The fish and wildlife habitat breeding areas in the Wood-

1 Tikchik State Park shall be managed to sustain the fish and wildlife  
2 resources of the park in perpetuity.

3 Sec. 41.20.490. INCOMPATIBLE USES. (a) The land and water areas  
4 described in sec. 470 of this chapter are not open to mineral entry  
5 under AS 38.05.135 - 38.05.280.

6 (b) The regulations adopted under sec. 480(d) of this chapter  
7 shall recognize that the current practice of traditional subsistence  
8 and recreational activities includes the use of small outboard motors  
9 and snow machines. Reasonable access by aircraft for recreational pur-  
10 poses shall be permitted.

11 (c) Development and operation of a hydroelectric site at Lake Elva  
12 is not considered an incompatible use.

13 (d) Development and operation of campsites on or adjacent to major  
14 spawning and breeding areas are incompatible uses unless it can be shown  
15 by a preponderance of evidence that the fishery and wildlife habitat and  
16 breeding areas will not be adversely affected to a significant degree  
17 by the development and operation.

18 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
19 070(c).