

Introduced: 2/7/84
Referred: Resources and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 417

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Kenai River Special Manage-
7 ment Area; and providing for an effective date."

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

9 * Section 1. FINDINGS. The legislature finds that the Kenai River is
10 an important natural resource and that it must be protected and preserved
11 for the maximum benefit of all Alaskans. The vitality of the Kenai River
12 is threatened. Power boat wakes and stream bank development have contri-
13 buted to the erosion of the river's banks and the degradation of its fish
14 beds. Increased use on the river endangers fish and wildlife habitats.
15 Competition among people who sport fish, professional fishing guides, and
16 others who use the river for recreation and transportation creates over-
17 crowded, hazardous, and unpleasant conditions. A multitude of state and
18 federal agencies with jurisdiction over various aspects of the river and
19 adjacent public and private land creates a labyrinth of regulation without
20 effectively preventing the river's deterioration. The river's fishery and
21 wildlife are its most important resources. The highest priority uses of the
22 river and its adjacent land derive from its fishery and wildlife resources,
23 which must be protected and preserved to ensure their renewability and
24 continued usefulness. To solve the river's problems a need exists for a
25 comprehensive management plan for the river and its adjacent land and for
26 coordinated management.

27 * Sec. 2. AS 41.21 is amended by adding new sections to read:

28 ARTICLE 4A. KENAI RIVER SPECIAL MANAGEMENT AREA.

29 Sec. 41.21.500. PURPOSE OF AS 41.21.500 -- 41.21.510. The

1 purpose of AS 41.21.500 -- 41.21.510 is to designate, as a unit of the
2 state park system under AS 41.21, the land and water described in
3 AS 41.21.502(a), and

4 (1) to protect and perpetuate the fishery and wildlife
5 habitat in the unit and adjacent area;

6 (2) to protect the scenic values and recreational values
7 in the unit and adjacent area; and

8 (3) to manage recreational uses and development activities
9 in the unit and adjacent area.

10 Sec. 41.21.502. DESIGNATION OF WATER AND LAND. (a) The surface
11 estate in the following state-owned water and land, including shore,
12 tide, and submerged land, and the surface estate in the water and land
13 that the state acquires in the future lying within the parcels de-
14 scribed as follows, are designated the Kenai River Special Management
15 Area:

16 (1) the Kenai River from its confluence with Cook Inlet at
17 the common section line of Sections 5 and 6, Township 5 North, Range
18 11 West, Seward Meridian, upstream to and including the waters of the
19 Kenai and Skilak Lakes;

20 (2) the Moose River from its confluence with the Kenai
21 River upstream to the Sterling Highway Bridge;

22 (3) the Funny River from its confluence with the Kenai
23 River upstream to the Funny River Road Bridge;

24 (4) the state land within the following parcels:

25 (A) Kenai Keys

26 Township 5 North, Range 8 West, Seward Meridian

27 Alaska State Land Survey No. 73-146,

28 Lots 2,3,5-8, and 12-33 of Block 2.

29 Tract B.

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A small un-meandered island located within the SE SE of Section 36.

According to the Stephenkie Alaska Subdivision, Alaska State Land Survey No. 73-146, filed in the Kenai Recording District as Plat No. 79-83.

Township 5 North, Range 8 West, Seward Meridian Section 36: General Land Office Lots 2, 3, SWNE, NENE, excluding the Kenai Keys Road Right-of-Way and Stephenkie Alaska Subdivision, Alaska State Land Survey No. 73-146, filed in the Kenai Recording District as Plat No. 79-83.

Section 26: General Land Office Lot 9.

(B) Bing's Landing

Township 5 North, Range 8 West, Seward Meridian Section 16: Portion of WW lying south of the Sterling Highway.

Section 20: Lot 1.

Section 21: Lot 3.

(C) Izaak Walton

Township 5 North, Range 8 West, Seward Meridian Parcel #1: Starting at the Southwest corner of Lot 6, Section 7, go South 0°08' East a distance of 888.1 feet to the center of road to corner no. 1, which is the true point of beginning; then North 73°5' West along the center of the road a distance of 727 feet to corner no. 2; then in a southwesterly

1 direction a distance of 515.6 feet , along
2 the line of mean high water of Moose River to
3 point no. 3; then a distance of 108 feet , to
4 point no. 4 along the line of mean high water
5 of Moose River to Kenai River; then a distance
6 of 75.3 feet , to point no. 5 along that
7 river; then upstream a distance of 808.6 feet
8 , at mean high water along Kenai River to
9 point no. 6; then North 0°8' West 150 feet to
10 point no. 7; then south 89°57' East a distance
11 of 208 feet to point no. 8; then North 0°08'
12 West 213.9 feet to point no. 1, which is the
13 true point of beginning, in the Kenai
14 Recording District.

15 Parcel #2: Starting at the Southwest corner of
16 Lot 6, Section 7, go South 0°08' East a
17 distance of 1102.0 feet to corner no. 1, which
18 is the true point of beginning; then North
19 89°57' West 208.0 feet to corner no. 2; then
20 South 0°08' East 150 feet to corner no. 3,
21 which is a point at mean high water of the
22 Kenai River, then Southeasterly a distance of
23 238 feet , along the line of high water of
24 that river to corner no. 4, which is a point
25 268 feet , South 0°08' East of corner no. 1,
26 then North 0°08' West 268 feet to corner no.
27 1, which is the true point of beginning,
28 containing one acre , in the Kenai Recording
29 District.

1 (D) Milnunga
2 Township 5 North, Range 8 West, Seward Meridian
3 Section 7: Lot 10.
4 (E) Funny River
5 Township 5 North, Range 9 West, Seward Meridian
6 Section 28: SE SE .
7 Section 33: Lots 1, 3, SE NW, portion of NE
8 lying west of the Funny River Road.
9 Tract 6, Heistand Subdivision, Addition No. 2,
10 according to Plat No. 77-174, filed in the
11 Kenai Recording District.
12 (F) Morgan's Landing
13 Township 5 North, Range 9 West, Seward Meridian
14 Section 21: SW SE .
15 Section 28: Lots 2, 3, 7-9, 14, 15, NE NW,
16 NW SW
17 Section 33: Lot 2.
18 (G) Kenai River Islands
19 Township 5 North, Range 8 West, Seward Meridian
20 Section 27: Lots 10, 17,
21 Township 5 North, Range 10 West, Seward Meridian
22 Section 6: Lots 9, 10.
23 Section 7: Lots 2-4, 8, 11, 15.
24 Section 18: Lots 2, 3, 14.
25 Section 19: Lots 3, 17.
26 Section 30: Lots 2, 8.
27 Section 31: Lots 7, 10.
28 Section 32: Lot 7.
29 Section 33: Lots 5, 8.

1 Section 34: Lot 10.
2 Township 5 North, Range 11 West, Seward Meridian
3 Section 36: Lot 2 within NE .
4 (H) Slikok Creek
5 Township 5 North, Range 11 West, Seward Meridian
6 Section 36: Tract "A", Slikok Creek Alaska
7 Subdivision
8 (I) Big Eddy
9 Township 5 North, Range 11 West, Seward Meridian
10 Section 24: Lots 14, 15, NW NE SE .
11 (J) Ciechanski
12 Township 5 North, Range 11 West, Seward Meridian
13 Section 24: Lot 1
14 (K) Kenai River Flats
15 Township 5 North, Range 11 West, Seward Meridian
16 Section 15: Lot 8, NW SE , N SW , N S SW .
17 (L) Other Lower River Land
18 Township 5 North, Range 10 West, Seward Meridian
19 Section 6: Lot 8.
20 Section 7: Lots 5-7, 15.
21 Section 18: Lots 4-7, 10-13, NE SW , E NW .
22 Section 19: Lot 16.
23 Township 5 North, Range 11 West, Seward Meridian
24 Section 1: Lot 10.
25 Section 12: Lots 1-3, 7-10, 13, N SE , SE NE ,
26 NE SW .
27 Section 13: Lot 1, SW NW .
28 Section 14: Lots 2, 7.
29 Section 16: Lots 1-10, SE , NW NW , SE SW .

1 (b) The land and water described in (a) of this section are
2 designated as a special purpose area under art. VIII, sec. 7, of the
3 Alaska Constitution, and are closed to multiple purpose use in con-
4 formity with AS 38.05.300, subject to valid existing rights.

5 (c) The mineral estate in the land and water described in (a) of
6 this section is closed to mineral entry under AS 38.05.185 -- 38.-
7 05.280.

8 Sec. 41.21.504. DESIGNATION OF MANAGEMENT RESPONSIBILITIES. (a)
9 The land and water described in AS 41.21.502 are assigned to the
10 Department of Natural Resources for control, maintenance, and develop-
11 ment consistent with the findings and purposes of this Act.

12 (b) Nothing in AS 41.21.500 -- 41.21.512 affects the applicabil-
13 ity of (1) AS 41.99.010 and AS 16 regarding fish and game responsibil-
14 ities; (2) AS 46.03 regarding Department of Environmental Conservation
15 responsibilities; or (3) the responsibilities of state agencies and
16 municipalities under AS 44.19.145(a)(11) and AS 46.40.100.

17 Sec. 41.21.506. COMPREHENSIVE MANAGEMENT PLAN; REGULATIONS. (a)
18 Within two years after the effective date of this Act the commissioner
19 shall, subject to the availability of appropriations enacted to imple-
20 ment this Act, develop and adopt a comprehensive management plan for
21 the Kenai River Special Management Area. The plan must cover the land
22 abutting the rivers described in AS 41.21.502(a)(1) -- (3), whether
23 state-owned or privately owned, to a distance of one-quarter mile
24 upland on each side as measured on a horizontal plane from the mean
25 high water line of each river, and other adjacent public and private
26 land the commissioner decides should be included within the plan to
27 effectuate the purposes of this Act. The commissioner may periodical-
28 ly review the plan and adopt changes to the plan as conditions war-
29 rant.

1 (b) The commissioner shall adopt regulations, under the Adminis-
2 trative Procedure Act (AS 44.62), that are necessary to effectuate the
3 purposes of this Act and to implement the plan adopted under (a) of
4 this section. The regulations must

5 (1) designate incompatible uses and prohibit or restrict
6 them, and

7 (2) establish a registration, licensing, or comparable
8 procedure for professional fishing guides and such additional fishing
9 guide controls as the commissioner decides are necessary.

10 (c) Until regulations adopted under AS 41.21.500 -- 41.21.512
11 take effect, the commissioner may apply other relevant state regula-
12 tions to the Kenai River Special Management Area.

13 (d) For any activity that could be regulated by or is authorized
14 by a municipal corporation or the Kenai Peninsula Borough through the
15 exercise of planning, platting, and zoning powers granted in AS 29.33,
16 the commissioner may review and disapprove those activities to insure
17 consistency with the purposes of this Act and the plan adopted under
18 (a) of this section.

19 (e) The provisions of AS 41.21.025(b) and (c) regarding zoning
20 regulations do not apply to the land and water described in AS 41.21.-
21 500 -- 41.21.512.

22 Sec. 41.21.508. ADDITIONAL LAND. (a) In the name of the state,
23 the commissioner may acquire by lease, purchase, exchange under
24 AS 38.50.010 -- 38.50.170, bequest, gift, or any other lawful means,
25 title to or interest in real property or improvements on the property,
26 adjacent to or within the boundaries of the Kenai River Special Man-
27 agement Area in order to effectuate the purposes of this Act.

28 (b) The commissioner may, under AS 38.05.295 -- 38.05.300,
29 adjust the boundaries of the Kenai River Special Management Area by

1 adding other state-owned land and water to effectuate the purposes of
2 this Act.

3 Sec. 41.21.510. PUBLIC INVOLVEMENT. In developing and implement-
4 ing the plan required by AS 41.21.506(a), the commissioner shall
5 appoint an advisory board with which to consult; shall hold public
6 meetings, during development of the plan, in the areas affected; and
7 shall consult on a regular basis with federal and state agencies,
8 local governments, interest groups, and other interested members of
9 the public.

10 Sec. 41.21.512. COOPERATIVE MANAGEMENT AGREEMENTS. The commis-
11 sioner may enter into cooperative management agreements with federal
12 agencies, municipalities, other state agencies, or private landowners
13 to effectuate the purposes of this Act.

14 * Sec. 3. AS 41.21 is amended by adding a new section to read:

15 Sec. 41.21.960. CIVIL ENFORCEMENT. In addition to other rem-
16 edies provided by law, the attorney general, at the request of the
17 commissioner, may seek an injunction and damages for a violation of a
18 regulation adopted under AS 41.21.500 -- 41.21.512 or other regula-
19 tions that are applicable to the special management area established
20 by AS 41.21.502.

21 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).