

Offered: 3/22/84
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 417 (Resources)

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 Sec. 41.21.500. PURPOSE OF AS 41.21.500 - 41.21.514. The pur-
29 pose of AS 41.21.500 - 41.21.514 is

1 (1) to designate as a unit of the state park system under
2 this chapter the land and water described in AS 41.21.502(a);

3 (2) to protect and perpetuate the fishery and wildlife
4 resources and habitat in the unit and adjacent area; and

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

7 Sec. 41.21.502. KENAI RIVER SPECIAL MANAGEMENT AREA ESTABLISHED.

8 (a) The surface estate in the land and water presently owned by the
9 state and all land and water acquired by the state in the future,
10 including shore, tide, and submerged land, lying within the parcels
11 described in this section is designated as the Kenai River Special
12 Management Area:

13 (1) the Kenai River at the common section line of Sections
14 16 and 17, Township 5 North, Range 11 West, Seward Meridian, upstream
15 to and including the waters of the Kenai and Skilak Lakes;

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

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

20 (4) the state land in the Kenai Recording District that is
21 located within the following parcels:

22 (A) Kenai Keys

23 Township 5 North, Range 8 West, Seward Meridian

24 Section 26: General Land Office Lot 9

25 Section 36:

26 According to the Stephenie Alaska Subdivision,

27 Alaska State Land Survey No. 73-146:

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

29 Tract B

1 A small un-meandered island located within the
2 SE1/4SE1/4 of Section 36
3 General Land Office Lots 2, 3
4 SW1/4NE1/4
5 NE1/4NW1/4
6 Excluding the Kenai Keys Road Right-of-Way and
7 Stephenie Alaska Subdivision, Alaska State
8 Land Survey No. 73-146

9 (B) Bing's Landing
10 Township 5 North, Range 8 West, Seward Meridian
11 Section 16: Portion of W1/2W1/2 lying south of
12 the Sterling Highway

13 Section 20: Lot 1

14 Section 21: Lot 3

15 (C) Izaak Walton
16 Township 5 North, Range 8 West, Seward Meridian
17 Section 7:

18 Parcel #1: Starting at the Southwest corner of
19 Lot 6, Section 7, T5N, R8W, go South 0°08' East
20 a distance of 888.1 feet to the center of road
21 to corner no. 1, which is the true point of
22 beginning; then North 73°5' West along the
23 center of the road a distance of 727 feet to
24 corner no. 2; then in a southwesterly direction
25 a distance of 515.6 feet plus or minus, along
26 the line of mean high water of Moose River to
27 point no. 3; then a distance of 108 feet plus
28 or minus, to point no. 4 along the line of mean
29 high water of Moose River to Kenai River; then

1 a distance of 75.3 feet plus or minus, to point
2 no. 5 along that river; then upstream a
3 distance of 808.6 feet plus or minus, at mean
4 high water along Kenai River to point no. 6;
5 then North 0°8' West 150 feet to point no. 7;
6 then south 89°57' East a distance of 208 feet
7 to point no. 8; then North 0°08' West 213.9
8 feet to point no. 1, which is the true point of
9 beginning.

10 Parcel #2: Starting at the Southwest corner of
11 Lot 6, Section 7, T5N, R8W, go South 0°08' East
12 a distance of 1102.0 feet to corner no. 1,
13 which is the true point of beginning; then
14 North 89°57' West 208.0 feet to corner no. 2;
15 then South 0°08' East 150 feet plus or minus to
16 corner no. 3, which is a point at mean high
17 water of the Kenai River, then Southeasterly a
18 distance of 238 feet plus or minus, along the
19 line of high water of that river to corner
20 no. 4, which is a point 268 feet plus or minus,
21 South 0°08' East of corner no. 1, then North
22 0°08' West 268 feet plus or minus to corner
23 no. 1, which is the true point of beginning,
24 containing one acre plus or minus.

25 (D) Nilnunqa
26 Township 5 North, Range 8 West, Seward Meridian
27 Section 7: Lot 10
28 (E) Funny River
29 Township 5 North, Range 9 West, Seward Meridian

1 Section 28: SE1/4SE1/4
2 Tract 6, Heistand Subdivision,
3 Addition No. 2
4 Section 33: Lots 1, 3
5 SE1/4NW1/4
6 portion of NE1/4
7 lying west of the Funny River Road
8 (F) Morgan's Landing
9 Township 5 North, Range 9 West, Seward Meridian
10 Section 21: SW1/4SE1/4
11 Section 28: Lots 2, 3, 7 - 9, 14, 15
12 NE1/4NW1/4
13 NW1/4SW1/4
14 Section 33: Lot 2
15 (G) Kenai River Islands
16 Township 5 North, Range 8 West, Seward Meridian
17 Section 27: Lots 10, 17
18 Township 5 North, Range 10 West, Seward Meridian
19 Section 6: Lots 9 - 10
20 Section 7: Lots 2 - 4, 8, 11, 16
21 Section 18: Lots 2, 3, 14
22 Section 19: Lots 3, 17
23 Section 30: Lots 2, 8
24 Section 31: Lots 7, 10
25 Section 32: Lot 7
26 Section 33: Lots 5, 8
27 Section 34: Lot 10
28 Township 5 North, Range 11 West, Seward Meridian
29 Section 36: Lot 2 within NE1/4

1 (H) Slikok Creek
2 Township 5 North, Range 11 West, Seward Meridian
3 Section 36: Tract "A", Slikok Creek Alaska
4 Subdivision
5 (I) Big Eddy
6 Township 5 North, Range 11 West, Seward Meridian
7 Section 24: Lots 14, 15
8 NW1/4NE1/4SE1/4
9 (J) Ciechanski
10 Township 5 North, Range 11 West, Seward Meridian
11 Section 24: Lot 1
12 (K) Kenai River Flats
13 Township 5 North, Range 11 West, Seward Meridian
14 Section 15: Lot 8
15 NW1/4SE1/4
16 N1/2SW1/4
17 N1/2S1/2SW1/4
18 (L) Other Lower River Land
19 Township 5 North, Range 10 West, Seward Meridian
20 Section 6: Lot 8
21 Section 7: Lots 5 - 7, 15
22 Section 18: Lots 4 - 7, 10 - 13
23 NE1/4SW1/4
24 E1/2NW1/4
25 Section 19: Lot 16
26 Township 5 North, Range 11 West, Seward Meridian
27 Section 1: Lot 10
28 Section 12: Lots 1 - 3, 7 - 10, 13
29 N1/2SE1/4

1 SE1/4NE1/4
2 NE1/4SW1/4
3 Section 13: Lot 1
4 SW1/4NW1/4
5 Section 14: Lots 2, 7
6 Section 16: Lots 1 - 10
7 SE1/4
8 NW1/4NW1/4
9 SE1/4SW1/4

10 (b) Subject to valid existing rights, the land and water de-
11 scribed in (a) of this section are designated as a special purpose
12 area under art. VIII, sec. 7, of the Alaska Constitution.

13 (c) Except for oil and gas leasing under AS 38.05.180, the
14 mineral estate in the State-owned land and water described in (a) of
15 this section is closed to mineral entry under AS 38.05.181 -
16 38.05.280.

17 Sec. 41.21.504. DESIGNATION OF MANAGEMENT RESPONSIBILITIES. (a)
18 The land and water described in AS 41.21.502(a) is assigned to the
19 Department of Natural Resources for control, maintenance, and develop-
20 ment consistent with the purposes of AS 41.21.500 - 41.21.514.

21 (b) Nothing in AS 41.21.500 - 41.21.514 affects the applicabil-
22 ity of

23 (1) AS 41.99.010 and AS 16 regarding the responsibilities
24 of the Department of Fish and Game or the Board of Fisheries or the
25 Board of Game;

26 (2) AS 46.03 regarding the responsibilities of the Depart-
27 ment of Environmental Conservation; or

28 (3) AS 44.19.145(a)(11) and AS 46.40.100 regarding the
29 responsibilities of state agencies and municipalities.

1 Sec. 41.21.506. COMPREHENSIVE MANAGEMENT PLAN; REGULATIONS. (a)
2 Within two years from the effective date of this Act the commissioner
3 shall develop and adopt a comprehensive management plan for the Kenai
4 River Special Management Area in consultation with the Kenai Peninsula
5 Borough. The plan may include the land adjacent to the rivers des-
6 cribed in AS 41.21.502(a)(1) - (3) whether the land is owned by the
7 state or privately owned and may include other land considered appro-
8 priate by the commissioner and the Kenai Peninsula Borough. The
9 commissioner shall periodically review the plan and adopt changes to
10 the plan in consultation with the Kenai Peninsula Borough.

11 (b) The commissioner shall adopt regulations under the Adminis-
12 trative Procedure Act (AS 44.62) that are necessary to achieve the
13 purposes of AS 41.21.500 - 41.21.514 and to implement the plan adopted
14 under (a) of this section. The regulations shall

15 (1) designate incompatible uses and prohibit or restrict
16 them, and

17 (2) establish a registration, licensing, or comparable
18 procedure for professional fishing guides and such additional fishing
19 guide controls as the commissioner considers necessary.

20 (c) Until regulations adopted under AS 41.21.500 - 41.21.512
21 take effect, existing state regulations otherwise applicable to the
22 Kenai River Special Management Area remain in effect.

23 (d) A regulation adopted under this section applies to land
24 owned by the state but does not apply to land not owned by the state
25 that is located within the boundaries of a municipality unless the
26 regulation has been approved by the municipality.

27 (e) The provisions of AS 41.21.025(b) and (c) do not apply to
28 the land and water described in AS 41.21.502(a).

29 Sec. 41.21.508. ADDITIONAL LAND. (a) The commissioner may

1 acquire title to or an interest in land or improvements on land that
2 is adjacent to or within the boundaries of the Kenai River Special
3 Management Area in the name of the state in order to achieve the
4 purposes of AS 41.21.500 - 41.21.514, by lease, purchase, exchange
5 under AS 38.50, bequest, gift, or other lawful means but not by emi-
6 nent domain.

7 (b) The commissioner may adjust the boundaries of the Kenai
8 River Special Management Area under AS 38.05.295 - 38.05.300 by adding
9 state-owned land and water to the Kenai River Special Management Area
10 to achieve the purposes of AS 41.21.500 - 41.21.514.

11 Sec. 41.21.510. PUBLIC INVOLVEMENT. (a) In developing and
12 implementing the management plan required by AS 41.21.506(a), the
13 commissioner shall appoint an advisory board. The commissioner and
14 the advisory board shall jointly hold public meetings during
15 development of the management plan in the areas affected. The
16 commissioner shall consult with and solicit recommendations from the
17 advisory board and from federal and state agencies, interest groups,
18 and other interested members of the public.

19 (b) The advisory board appointed under this section shall be
20 representative of user groups, resident property owners, municipal-
21 ities, agencies of the state and federal governments, and other
22 interest groups. A majority of the members of the advisory group
23 shall be residents of the Kenai Peninsula Borough.

24 Sec. 41.21.512. COOPERATIVE MANAGEMENT AGREEMENTS. The commis-
25 sioner may enter into cooperative management agreements with a federal
26 agency, a municipality, another state agency, or a private landowner
27 to achieve the purposes of AS 41.21.500 - 41.21.514.

28 Sec. 41.21.514. CIVIL ENFORCEMENT. In addition to any other
29 remedy provided by law, the attorney general may seek an injunction

1 and damages at the request of the commissioner for a violation of a
2 regulation adopted under AS 41.21.500 - 41.21.514 or a regulation that
3 is applicable to the Kenai River Special Management Area established
4 under AS 41.21.502.

5 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
6 10.070(c).