

Offered: 5/2/90  
Referred: Resources

6-0920P

Original sponsor(s): Resources Committee

1 IN THE HOUSE BY THE C&RA COMMITTEE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 346 (C&RA)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act establishing the Yakataga State Game Refuge;  
7 relating to the management of state land within the  
8 Yakataga area; and providing for an effective date."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. AS 16.20 is amended by adding a new section to read:  
11 Sec. 16.20.033. YAKATAGA STATE GAME REFUGE. (a) The following  
12 state-owned land and water and all land acquired in the future by the  
13 state lying within the parcels described in this subsection are estab-  
14 lished as the Yakataga State Game Refuge:  
15 (1) Township 20 South, Range 13 East, Copper River Meridian  
16 Section 11: SE1/4  
17 Section 12: S1/2  
18 Section 13  
19 Section 14: E1/2  
20 Sections 22 - 27  
21 Sections 34 - 36  
22 (2) Township 20 South, Range 14 East, Copper River Meridian  
23 Sections 7 - 12: S1/2  
24 Sections 13 - 36  
25 (3) Township 20 South, Range 15 East, Copper River Meridian  
26 Sections 7 - 12: S1/2  
27 Sections 13 - 36  
28 (4) Township 20 South, Range 16 East, Copper River Meridian  
29 Sections 7 - 9: S1/2





1 particularly commercial, sport, and subsistence fishing, hunting,  
2 viewing, photography, and general public recreation in a high quality  
3 environment.

4 (c) The state may not acquire by eminent domain private land  
5 that is located within the state-owned land specified in (a) of this  
6 section for inclusion in the Yakataga State Game Refuge. The state  
7 may acquire private land that is located within the state-owned land  
8 specified in (a) of this section by purchase, exchange, or otherwise  
9 from willing owners for inclusion in the Yakataga State Game Refuge.

10 (d) The establishment of the Yakataga State Game Refuge under  
11 this section does not impair or alter valid existing rights including  
12 pending Native allotment applications, access to set net sites, and  
13 access to and from private land located within the Yakataga State Game  
14 Refuge.

15 (e) The department shall allow commercial, sport, and subsis-  
16 tence fishing and hunting within the Yakataga State Game Refuge under  
17 regulations of the Board of Fisheries and the Board of Game. The  
18 department shall also permit associated support activities when neces-  
19 sary and consistent with AS 16.20.010 - 16.20.080 to support fishing  
20 and hunting permitted under this section, including fish buying  
21 operations, aircraft support including landing strips, and off-road  
22 vehicle use.

23 (f) Egress and ingress to and from private property within the  
24 parcels described in (a) of this section shall be allowed through  
25 access corridors established by agreement between the department, the  
26 Department of Natural Resources, and the owners of private land in-  
27 volved. The establishment of the Yakataga State Game Refuge does not  
28 impair or alter existing rights of access to set net lease sites.

29 (g) The department shall adopt and may revise a management plan

1 for the Yakataga State Game Refuge.

2 \* Sec. 2. AS 16.20.033(a)(6) is amended to read:

3 (6) Township 21 South, Range 11 East, Copper River Meridian  
4 [EXCLUDING THAT PORTION OF] Tract A-148 lying north  
5 and west of Seal River [:]

6 Sections 1 - 2

7 Sections 3 - 4: North and east of the Seal River  
8 and its associated lake system

9 Section 10: East of Seal River and one mile north  
10 of mean high tide line on the Gulf of Alaska

11 Sections 11 - 12

12 Sections 13 - 14: Above mean high tide line on  
13 the Gulf of Alaska

14 \* Sec. 3. AS 16.20.033(a)(13) is amended to read:

15 (13) Township 21 South, Range 17 East, Copper River Meridian

16 Section 5: W1/2

17 Sections 6 - 7

18 Section 8: W1/2

19 Sections 12 - 13: Lying south and east of the  
20 south channel of the Yakataga River

21 \* Sec. 4. AS 16.20.033(a) is amended by adding new paragraphs to read:

22 (14) Township 21 South, Range 9 East, Copper River Meridian  
23 Tract A-148

24 (15) Township 21 South, Range 10 East, Copper River Meridian  
25 Tract A-148

26 (16) Township 21 South, Range 18 East, Copper River Meridian

27 Sections 7 - 8: Lying south of the south channel  
28 of the Yakataga River

29 Section 17: N1/2

1 Section 18: N1/2, SW1/4, N1/2SE1/4

2 Section 19: NW1/4, N1/2SW1/4

3 \* Sec. 5. AREA PLAN AND REPORT TO THE LEGISLATURE. (a) The commis-  
4 sioner of natural resources shall undertake and complete an area plan for  
5 the Yakataga area, the state land and water located between Icy Bay and  
6 Cape Suckling, under AS 38.04.065 and the regulations of the Department of  
7 Natural Resources. The area plan completed under this section does not  
8 include the land of the Yakataga State Game Refuge.

9 (b) The commissioner of natural resources shall consider the full  
10 range of management options for the timber rights in each tract of land of  
11 the University of Alaska (ADL 223456) under litigation, including and  
12 excluding timber harvest.

13 (c) The area plan shall be completed by December 31, 1992, and shall  
14 be delivered to the chairs of the Resource Committees of the legislature.  
15 The commissioner may include with the area plan recommendations for legis-  
16 lation defining a part of the area as a state park, state forest, state  
17 game refuge, state critical habitat area, or other special designation.

18 (d) Except as provided in this subsection and (e) of this section and  
19 subject to valid existing rights, the commissioner of natural resources may  
20 not conduct timber or timber-related construction activity, including road  
21 construction, timber sales and commercial timber harvests in the Yakataga  
22 area, the area between Icy Bay and Cape Suckling, until completion of the  
23 area plan required by this section. The commissioner may maintain existing  
24 timber harvest facilities. This section does not diminish the right of a  
25 private property owner to have access or develop its land or resources or  
26 the authority of an agency to grant approval for access or development.

27 (e) The commissioner may permit the harvest of timber within the  
28 parcel described as Tract 152 at White River under ADL 223456.

29 \* Sec. 6. TIMBER TRACTS OF THE UNIVERSITY OF ALASKA. (a) The

1 commissioner of natural resources shall engage in every reasonable effort  
2 to achieve a settlement of litigation involving the City of Yakutat v. the  
3 Department of Natural Resources (Civil No. 1JU-88-271) that accommodates  
4 the rights of the University of Alaska to compensation for university trust  
5 land conveyed to the Municipality of Anchorage. The commissioner shall,  
6 for the purposes of settlement of the litigation, consider the timber in  
7 the tracts transferred as ADL 223456 as the property of the university.  
8 Nothing in this subsection affects the claims or rights of a party to the  
9 litigation.

10 (b) The commissioner of natural resources shall engage in every  
11 reasonable effort to reach agreement on the fair market value for the  
12 timber rights to Tract A-148 at Cape Suckling and Tract 20 at Yakataga.  
13 The commissioner shall report the fair market value agreed upon by the  
14 commissioner and the University of Alaska under this subsection to the  
15 chairs of the resources committees of the legislature on the date the  
16 commissioner and the university reach agreement on the fair market value  
17 determined under this subsection.

18 (c) Regardless of the disposition of City of Yakutat v. the Depart-  
19 ment of Natural Resources (Civil No. 1JU-88-271), the legislature intends  
20 that the state reacquire from the University of Alaska its interest in  
21 Tract A-148 at Cape Suckling and Tract 20 at Yakataga. The legislature  
22 intends to compensate the University of Alaska for Tract A-148 and Tract 20  
23 based on the agreement on the fair market value reached under (b) of this  
24 section. If the commissioner and the University of Alaska reach agreement  
25 on the fair market value determined under (b) of this section, all money  
26 received in satisfaction of the court order issued in Sullivan v. State  
27 after the date of agreement shall be transferred to the University of  
28 Alaska trust fund as additional earnest money for the reacquisition of the  
29 timber rights of the University of Alaska on Tract A-148 at Cape Suckling

1 and Tract 20 at Yakataga.

2 (d) The commissioner of revenue shall establish a trust account in  
3 the general fund of the state. The commissioner of natural resources shall  
4 transfer to the commissioner of revenue for deposit into the trust account  
5 any amounts paid from July 1, 1990, through January 1, 1991, with respect  
6 to rights arising under the Icy Cape II Timber Sale Contract, ADL 203002.  
7 The commissioner of revenue shall, on January 30, 1991, transfer funds  
8 received under this subsection to the University of Alaska if an agreement  
9 on the agreed fair market value is reached under (b) of this section by  
10 January 21, 1991. If an agreement is not reached under (b) of this section  
11 by January 21, 1991, the funds shall be transferred to the general fund of  
12 the state.

13 \* Sec. 7. LEGISLATIVE INTENT. It is the intent of the legislature that  
14 the establishment of the Yakataga State Game Refuge only take effect if the  
15 administrative decision of the commissioner of natural resources that  
16 authorizes timber harvesting in the "extension area" under the Icy Cape II  
17 timber sale, ADL 203002, as amended on March 7, 1990, is not challenged in  
18 the Alaska Superior Court by administrative appeal within the time permit-  
19 ted by law, or, if appealed, the decision is affirmed by a final judicial  
20 order not subject to further appeal.

21 \* Sec. 8. Sections 2 - 4 of this Act take effect on the effective date  
22 of an appropriation Act appropriating to the University of Alaska those  
23 amounts necessary to compensate the university for the agreed value reached  
24 under sec. 6(b) of this Act for the interest of the university in Tract  
25 A-148 at Cape Suckling and Tract 20 at Yakataga after crediting to the  
26 university those amounts received by the university under sec. 6(c) and (d)  
27 of this Act.

28 \* Sec. 9. Sections 1 and 5 - 6 of this Act take effect on the date that  
29 the commissioner of natural resources certifies to the lieutenant governor

1 and the revisor of statutes that the administrative decision of the commis-  
2 sioner authorizing timber harvesting in the extension area under the Icy  
3 Caps II timber sale, ADL 203002, as amended on March 7, 1990, has become  
4 final and is not subject to further administrative or judicial review.