

Original sponsor(s): Resources Committee

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 346 (Resources) am S
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 section for inclusion in the Yakataga State Game Refuge. The state
2 may acquire private land that is located within the state-owned land
3 specified in (a) of this section by purchase, exchange, or otherwise
4 from willing owners for inclusion in the Yakataga State Game Refuge.

5 (e) The establishment of the Yakataga State Game Refuge under
6 this section does not impair or alter valid existing rights including
7 pending Native allotment applications, access to set net sites, and
8 access to and from private land located within the Yakataga State Game
9 Refuge.

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

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

24 (h) The department shall adopt and may revise a management plan
25 for the Yakataga State Game Refuge.

26 * Sec. 2. AS 16.20.033(a)(5) is amended to read:

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

1 Sections 1 - 2
2 Sections 3 - 4: North and east of the Seal River
3 and its associated lake system
4 Section 10: East of Seal River and one mile north
5 of mean high tide line on the Gulf of Alaska
6 Sections 11 - 12
7 Sections 13 - 14: Above mean high tide line on
8 the Gulf of Alaska

9 * Sec. 3. AS 16.20.033(a) is amended by adding new paragraphs to read:

10 (12) Township 21 South, Range 9 East, Copper River Meridian
11 Tract A-148

12 (13) Township 21 South, Range 10 East, Copper River Meridian
13 Tract A-148.

14 * Sec. 4. AREA PLAN AND REPORT TO THE LEGISLATURE. (a) The commis-
15 sioner of natural resources shall undertake and complete an area plan for
16 the Yakataga area, the state land and water located between Icy Bay and
17 Cape Suckling, under AS 38.04.065 and the regulations of the Department of
18 Natural Resources. The area plan completed under this section does not
19 include the land of the Yakataga State Game Refuge west of the Kaliakh
20 River.

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

25 (c) The area plan shall be completed by July 1, 1993, and shall be
26 delivered to the chairs of the Resource Committees of the legislature. The
27 commissioner may include with the area plan recommendations for the re-
28 striction or expansion in the boundaries of the Yakataga State Game Refuge
29 and for legislation defining a part of the area as a state park, state

1 forest, state game refuge, state critical habitat area, or other special
2 designation.

3 (d) Except as provided in this subsection and (e) of this section and
4 subject to valid existing rights, the commissioner of natural resources may
5 not conduct timber or timber-related construction activity, including road
6 construction, timber sales and commercial timber harvests in the Yakataga
7 area, the area between Icy Bay and Cape Suckling, until July 1, 1993. The
8 commissioner may maintain existing timber harvest facilities. This section
9 does not diminish the right of a private property owner to have access or
10 develop its land or resources or the authority of an agency to grant appro-
11 val for access or development.

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

14 * Sec. 5. TIMBER TRACTS OF THE UNIVERSITY OF ALASKA. (a) The commis-
15 sioner of natural resources shall engage in every reasonable effort to
16 achieve a settlement of litigation involving the City of Yakutat v. the
17 Department of Natural Resources (Civil No. 1JU-88-271) that accommodates
18 the rights of the University of Alaska to compensation for university trust
19 land conveyed to the Municipality of Anchorage. The commissioner shall,
20 for the purposes of settlement of the litigation, consider the timber in
21 the tracts transferred as ADL 223456 as the property of the university.
22 Nothing in this subsection affects the claims or rights of a party to the
23 litigation.

24 (b) The commissioner of natural resources shall engage in every
25 reasonable effort to reach agreement on the fair market value for the
26 timber rights to Tract A-148 at Cape Suckling and Tract 20 at Yakataga.
27 The commissioner shall report the fair market value agreed upon by the
28 commissioner and the University of Alaska under this subsection to the
29 chairs of the resources committees of the legislature on the date the

1 commissioner and the university reach agreement on the fair market value
2 determined under this subsection.

3 (c) Regardless of the disposition of City of Yakutat v. the Depart-
4 ment of Natural Resources (Civil No. 1JU-88-271), the legislature intends
5 that the state reacquire from the University of Alaska its interest in
6 Tract A-148 at Cape Suckling and Tract 20 at Yakataga. The legislature
7 intends to compensate the University of Alaska for Tract A-148 and Tract 20
8 based on the agreement on the fair market value reached under (b) of this
9 section. If the commissioner and the University of Alaska reach agreement
10 on the fair market value determined under (b) of this section, all money
11 received in satisfaction of the court order issued in Sullivan v. State
12 after the date of agreement shall be transferred to the University of
13 Alaska trust fund as additional earnest money for the reacquisition of the
14 timber rights of the University of Alaska on Tract A-148 at Cape Suckling
15 and Tract 20 at Yakataga.

16 (d) The commissioner of revenue shall establish a trust account in
17 the general fund of the state. The commissioner of natural resources shall
18 transfer to the commissioner of revenue for deposit into the trust account
19 any amounts paid from July 1, 1990, through the date the commissioner and
20 the university reach agreement under (b) of this section, with respect to
21 rights arising under the Icy Cape II Timber Sale Contract, ADL 203002. The
22 commissioner of revenue shall, on the date the commissioner and the univer-
23 sity reach agreement under (b) of this section, transfer funds received
24 under this subsection to the University of Alaska if an agreement on the
25 agreed fair market value is reached under (b) of this section by Janu-
26 ary 21, 1991. If an agreement is not reached under (b) of this section by
27 January 21, 1991, the funds shall be transferred to the general fund of the
28 state.

29 * Sec. 6. LEGISLATIVE INTENT. It is the intent of the legislature that

1 the establishment of the Yakataga State Game Refuge only take effect if the
2 administrative decision of the commissioner of natural resources that
3 authorizes timber harvesting in the "extension area" under the Icy Cape II
4 timber sale, ADL 203002, as amended on March 7, 1990, is not challenged in
5 the Alaska Superior Court by administrative appeal within the time permit-
6 ted by law, or, if appealed, the decision is affirmed by a final judicial
7 order not subject to further appeal.

8 * Sec. 7. Sections 2 - 3 of this Act take effect on the effective date
9 of an appropriation Act appropriating to the University of Alaska those
10 amounts necessary to compensate the university for the agreed value reached
11 under sec. 5(b) of this Act for the interest of the university in Tract
12 A-148 at Cape Suckling after crediting to the university those amounts
13 received by the university under sec. 5(c) and (d) of this Act.

14 * Sec. 8. Except as provided in sec. 9 of this Act, secs. 1 and 4 - 5
15 of this Act take effect on the date that the commissioner of natural
16 resources certifies to the lieutenant governor and the revisor of statutes
17 that the administrative decision of the commissioner authorizing timber
18 harvesting in the extension area under the Icy Cape II timber sale,
19 ADL 203002, as amended on March 7, 1990, has become final and is not
20 subject to further administrative or judicial review.

21 * Sec. 9. The area described in sec. 1 of this Act that is east of the
22 Kaliakh River shall be included in the Yakataga State Game Refuge only if
23 and to the extent that the area plan prepared by the commissioner of
24 natural resources under sec. 4 of this Act contains a recommendation of the
25 commissioner to include that area within the Yakataga State Game Refuge.
26 Until the commissioner issues an area plan under sec. 4 of this Act, the
27 area east of the Kaliakh River shall be described as the Yakataga Special
28 Management Area and managed by the commissioner of natural resources.