

S

B

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96

COMMITTEE REPORT

SENATE

3/4/82

FURTHER: Finance

Date: 4/19/82

Mr. President:

The Committee on RESOURCES has had SSSB 796
providing for the management of state-owned land in the Haines area

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SSSB 796 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Don Hilman
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
Dick Shearer

CHAIRMAN

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

4/2/82
4:00pm
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
707-465-3800

MEMORANDUM

April 2, 1982

SUBJECT: Eagle Preserve/Haines Forrest -- SSSB 796
(Work Order No. 12-2781)

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

FROM: Richard A. Bradley *B*
Legislative Counsel

You have asked for a sectional analysis of SSSB 796.

Initially, I must note that the bill was not drafted or revised in this office. The bill was typed without change from a draft provided to us by Senator Ray at his specific request.

Some problems of a technical, typographical, and stylistic nature exist. I see no particular gain to an identification of them at this time beyond the suggestion that a committee substitute should be made to correct the errors.

Of a more substantive nature, note that the bill uses variations on the phrase "appropriate law" or sometimes "applicable law". The Legislative Drafting Manual discourages the use of this phrase; if the legislature has in mind specific law that is to apply, it should be specifically referenced by AS section. If, on the other hand, nothing more is meant than that the public officer is governed by law generally, then the phrase adds nothing substantive and confuses administrators of the law and members of the public who have to comply with the law. To that extent that specific law is apparently referenced, I would add the reference. Beyond that, I would propose to delete the phrases in any committee substitute.

I will identify more substantive improvements to the bill as the particular section is analyzed.

Sec. 41.20.550. The section contains a declaration of purpose; the purpose is to establish the Eagle Preserve as a unit of the state park system. Other purposes are stated.

The material at lines 26 - 29 on page 1 of the bill is not in the usual format for language establishing compliance with AS 38.05.300.

Sec.550(a) designates as the Eagle Preserve land described on a map in the office of the commissioner of natural resources. A line on a map is not as precise a description as that found in the usual legal description. Beyond that consideration, such a description is also not reasonably accessible to members of the public. I recommend that the legislature not describe a state park in that fashion and I understand that the Department of Law agrees with this recommendation.

In that same subsection, I would prefer not to use the term "acquired land" as it is used on page 2, line 1 (and elsewhere) in the bill. The term has a technical meaning under public land law that is inconsistent with its meaning here. Rather than confuse, I would use other language.

I believe the "and" on line 5 should read "are".

Sec. 550(b) provides that "Private land, existing selections of the Haines Borough under State law, and existing transportation and utility corridors lying within the parcels described in (a) of this section" are excluded from the Preserve. It also provides that the state may not acquire private land within the preserve by eminent domain.

The section has some problems. Initially I note that no parcels are "described" in (a) of the section. Also, the section is unnecessary to exclude private land from the Preserve; the language of the bill applies only to state land. If the intent of this language is to reassure members of the Haines community of the implications of the bill, then it would be more appropriate to put the logic of this section as a statement of legislative intent.

And finally, the language of the prohibition against acquisition of private land within the Preserve by eminent domain is broader than necessary and therefore mischievous.

I assume, for example, that the Department of Transportation and Public Facilities may not acquire private land within the Preserve for the improvement of highways or for any other public purpose under the existing language.

Sec. 550(c) seeks to protect Native allotments; it is also ambiguous. It uses the phrase "Approved and pending Native allotment applications" in the first phrase of the section and "all approved applications" in the latter phrase. I assume that "pending applications" are also to be treated as private land (if the applications are valid, the land is private) notwithstanding the nonparallel usage.

This section may also be intended to reassure members of the Native community concerned but it adds nothing to the law. If the language has that intent, I suggest that this section also be moved to a section of legislative intent and deleted from codified law.

In sec. 550(d), the Department of Fish and Game is given responsibility for management of fish and game resources. The phrase "under applicable law" should be deleted.

Sec. 550(e) provides for much consultation between state and federal agencies in the management of the Preserve. The phrase "adoption of reasonable regulations" in the section is not consistent with legislative style, primarily because it is meaningless. To the extent that it may suggest that regulations viewed as "unreasonable" are not effective, it misleads the public. If it suggests that unreasonable regulations do not have the force of law, it is inaccurate. Finally, who determines what is a "reasonable regulation"?

The phrase "Bald Eagle Protection Act of 1940 and other appropriate law" needs clarification. A statutory reference to the federal act should be added and the ambiguous "other appropriate law" should be clarified or deleted.

Sec. 550(f) provides that the natural habitat of the Preserve [I believe it would be clearer to say "the Preserve"] shall be managed to sustain eagle and salmon populations and other wildlife and water quality. The phrase "in accordance with applicable law" is used twice and should be deleted.

Sec. 550(g) provides that the land and water described in (a) of the section are closed to mineral entry and location, to commercial harvest of timber, conveyance of fee title (but not lease?) under state disposal laws, and to future municipal selections. Since I assume that disposal of lease interests in state land within the reserve is not intended to be permitted, the section should be clarified.

Sec. 550(h) provides for "traditional uses" to continue within the Preserve. Examples of the permitted uses are offered though the list is not complete. The user are alternatively described as "historically compatible uses," apparently to mean the same thing. The phrase "reasonable regulation" appears again.

Sec. 550(i) provides for access from private land and from nonprivate land on which valid existing rights exist. The first sentence is too long and unclear. Several awkward phrases within the section could be improved on without loss. The concept of "timely . . . access" is unclear. The phrase "economically feasible access for economic and other purposes" could be improved on. The phrase "reasonable regulation" appears.

It seems difficult to see how utility rights of way can ever be "compatible with the primary purpose" of the Preserve; it may be that such necessary rights of way should be granted under conditions that are consistent with minimal environmental impacts whether or not they are consistent with the primary purposes of the Preserve.

Sec. 550(j) requires the director of parks and the Advisory Council established later in the bill to develop the management plan. Much nonpermanent law appears and should be moved to uncodified sections -- or perhaps recast as permanent law.

The last sentence of the section is ineffective but is nonetheless unconstitutional. It provides that neither the federal government nor the state government nor private individuals may even study the question of adding to or deleting land from the Preserve without 90 days notice to the advisory council or an emergency certification from the director of parks. There seems no particular reason why the federal government should study the question of an addition

to or deletion from a state preserve but I believe the Supremacy Clause of the U.S. Constitution gives it that authority without seeking permission from the state. I assume that the First Amendment grants any individual citizen or group the authority to study the question [that is, to think about it] without seeking permission from the state. And if other statutory authority exists for a state study, the provision is ineffective even as to the state.

On a more positive note, I suspect that what is sought here is a political statement that the enactment of this legislation should be considered a resolution of the questions addressed in the bill. As a political statement (usually found in a statement of legislative intent), the goals can be reasonably achieved.

Sec. 41.20.560 establishes an advisory council for the Preserve.

Sec. 560(a) provides that the council has 11 members, appointed by the governor. They are entitled to the usual per diem and travel expenses.

Sec. 560(b) requires the governor to appoint individuals representing identified "interests". The governor may believe that he has the unfettered constitutional discretion to make executive appointments; to that extent, an attempt to limit the discretion of the governor in (b)(2), (5), and (7) may tread on the governor's power; in these cases, the effective appointment is made by the local official named in the subparagraph. The provisions at (b)(3), (4), and (6) are simply awkward; the governor is instructed to appoint "individuals . . . representing the following interests:

- (3) the Mayor of the City of Haines;
- (4) the Mayor of the Borough of Haines;
- (6) the President of the IRA Council of the Chilkat Indian Village;"

I assume that the goal of the bill on this latter point may be achieved if these individuals are made members of the advisory council ex officio.

And it might be more effective to provide that the commissioner of fish and game, the director of the division of forestry, and the director of the division of parks, or their designees serve ex officio rather than to use the existing formulations of paragraphs (b)(8), (10), and (11).

No "public members" are appointed.

Sec. 560(c) provides that members of the commission have two year terms. This provision seems inconsistent with the suggestion that the officials identified in (b)(3), (4), and (6) serve ex officio.

Sec. 560(d) directs the council to assist DNR in the development and monitoring of the management plan.

Sec. 41.15.570 (sic) establishes "miscellaneous provisions". The section requires renumbering as part of AS 41.20 and the subsections might better be reallocated.

Sec. 570(a) provides that "Notwithstanding any other provision of this Act or law," the establishment of the Preserve shall not be "deemed to enlarge, diminish, add to, or waive any substantive or procedural requirements otherwise applicable to the management or use of the adjacent lands of the Haines State Forest Resource Management Area, or other State or private lands".

I do not know what is meant by "substantive or procedural requirements". It may mean "law".

I assume that the usage of the word "adjacent" is meant in context to suggest that the Haines State Forest Resource Management Area is proximately located to the Preserve; it may mean, however, that adjacent lands of the Area are to be dealt with differently than more remote land of the Area. The usage later in the same section seems to reinforce this suggestion that "adjacent lands" are dealt with differently from remote lands. That result seems awkward and the section needs clarification.

The phrase "applicable law" appears.

If the legislature wishes coordination between the divisions of parks and forestry, it should direct the coordination not "encourage" it.

Sec. 570(b) is a state variation of the Federal (d)(2) "no more" legislation; it is clearly a statement of intent but not a substantive provision of law.

Sec. 570(c) is a repealer and does not belong in permanent law. It repeals the Chilkat River Fish and Game Critical Habitat Area established under AS 16.20.230(8).

Section 2 of the bill establishes the Haines State Forest Resource Management Area, usually referred to in this analysis as the Area.

Sec. 41.15.500 establishes the Haines State Forest Resource Management Area.

Sec. 500(a) provides for the purposes of the Area; the usual phrases are used: the "utilization, perpetuation, conservation, and production of the land and water" of both "renewable and nonrenewable resources" through "multiple use management" and the continuation of other "beneficial uses including traditional uses and other recreational activities".

Sec. 500(b) assigns the management to DNR.

Sec. 41.15.510 is described as the boundaries of the Area.

Sec. 510(a) provides that state-owned or acquired land and water located above mean high tide within the boundaries on a map in the office of the commissioner of natural resources are designated as the Area. For reasons indicated earlier, I would prefer not to use the term "acquired land". For reasons indicated earlier, I consider it poor legislation to withdraw and manage land described no more precisely than on a map in the commissioner's office.

The material at the end of the subsection assigning the management responsibility to DNR duplicates the provisions of Sec. 500(b).

Sec. 510(b) [protection to private land, existing transportation corridors, and borough selection] and 510(c) [Native allotment applications] are the parallels to similar provisions in the sections establishing the Preserve. The same reasons exist here for transferring them to a statement of legislative intent. The same overbroad prohibition

against the use of the eminent domain power by the state appears here.

Sec. 510(b) refers to "borough selection" ambiguously and ungrammatically. It is not clear whether existing borough selections within the Area are protected or excluded in the future. It should be clarified.

Sec. 510(d) requires the division of forestry to consult with the division of parks, etc. to promote effective management of the "Forest" (sic) and the Preserve.

Sec. 510(e) provides that "to the extent practicable," resource studies shall be designed to benefit both the Area and the Preserve. It is a matter of choice to the legislature (and not a matter of practicability) whether studies are designed to benefit both management areas or each separately. The matter should be clarified and an effective direction given; I note that the two areas are managed by different divisions within the same department.

Sec. 510(f) provides that the establishment of the Area has no effect on terms and conditions of existing permits or contracts involving use of the land, water, or other resources of the Forest (sic).

Sec. 41.15.520 provides for multiple use management.

Sec. 520(a) provides that land within the Area shall be managed under the principles of multiple use and sustained yield defined by AS 38.04.910 as well as pursuant to the "Forest Resources and Practices Act" as well as pursuant to a management plan prepared by DNR. I assume that the "Forest Resources and Practices Act" is AS 41.17. Language cast as temporary law within the section (the third sentence) should be recast as permanent law. The term "operational level inventory" is undefined and I do not know what it means. I do not know whether one was completed "within the last ten years". The reference to a "current" operational level inventory makes the language of the sentence temporary law.

Sec. 520(b) provides that DNR shall periodically review the management plan under AS 41.15.510; sec. 510 does not provide for a management plan. The second sentence

Senator Bettye Fahrenkamp

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directing the preparation of the management plan and the third sentence providing for the temporary management of the Area are temporary law. The Haines-Skagway Area Land Use Plan is undefined and I do not know what it refers to.

Sec. 520(c) directs that a copy of the management plan and revisions to it shall be provided to the legislature at stated times.

Sec. 520(d) provides that the Department of Fish and Game is responsible for management of the fish and game resources "under applicable law" and consistent with the purpose and provisions "of this section". The purposes are in Sec. 500.

Sec. 520(e) assigns control of highway access and roadside structures to DNR; the Department of Transportation and Public Facilities is responsible for repair and maintenance of "existing" public roads in the Area; logically, new roads and their repair and maintenance are not addressed under this section.

Sec. 520(f) provides that the state land and water described in Sec 510(a) are closed to the conveyance of fee title (but not apparently to lease) and to future municipal selections. No lands are described in Sec. 510.

Sec. 520(g) provides for much consultation on the adoption of regulations.

Sec. 41.15.530 provides for a cooperative management agreement.

It has a single subsection (a) which provides that DNR may enter into cooperative management agreements with persons who hold title to or have a valid entry on land within or adjoining the boundaries of the Area. The purposes of the management agreement are not delimited or described and the section appears incomplete.

The bill requires further review.

If I may assist further, please advise.

RAB:ljb

Bradley
4/21/82

*amendments made in finance are
outlined in pink*

Original sponsor: Ray

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 796 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the management of state-owned
7 land in the Haines area; establishing the Alaska Chilkat
8 Bald Eagle Preserve and the Haines State Forest Resource
9 Management Area; and providing for an effective date."

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

1 * Section 1. AS 41.20 is amended by adding new sections to read:

2 ARTICLE 16. ALASKA CHILKAT BALD EAGLE PRESERVE.

3 Section 41.20.506. DECLARATION OF PURPOSE. (a) The purpose of
4 AS 41.20.506 - 41.20.525 is to establish the state-owned land and water
5 described in AS 41.20.507(k) as the Alaska Chilkat Bald Eagle Preserve
6 as part of the state park system. The primary purpose of establishing
7 the Alaska Chilkat Bald Eagle Preserve is to protect and perpetuate the
8 Chilkat bald eagles and their essential habitats within the Alaska
9 Chilkat Bald Eagle Preserve in recognition of their statewide, nation-
0 ally, and internationally significant values in perpetuity.

1 (b) The Alaska Chilkat Bald Eagle Preserve is also established to

2 (1) protect and sustain the natural salmon spawning and
3 rearing areas of the Chilkat River and Chilkoot River systems within the
4 preserve in perpetuity;

5 (2) provide continued opportunities for research, study and
6 enjoyment of bald eagles and other wildlife;

7 (3) ensure to the maximum extent practicable water quality
8 and necessary water quantity under applicable laws;

9 (4) provide for other public uses consistent with the primary

1 purpose for which the Alaska Chilkat Bald Eagle Preserve is established;
2 (5) provide an opportunity for the continued traditional and
3 natural resource based lifestyle of the people living in the general
4 areas described in AS 41.20.507(k), consistent with the other purposes
5 of AS 41.20.506(a) and (b).

6 (c) It is the intent of the legislature in enacting AS 41.20.506 -
7 41.20.525 to provide sufficient protection for the purposes for which
8 the Alaska Chilkat Bald Eagle Preserve is established. Accordingly, the
9 establishment of the Alaska Chilkat Bald Eagle Preserve and the Haines
10 State Forest Resource Management Area (AS 41.15.500 - 41.15.520) is
11 determined to represent a proper balance between the reservation of
12 state public domain land and water for bald eagle preserve purposes and
13 state public domain land and water more appropriate for multiple use.
14 Therefore, the legislature determines that there is no need for legisla-
15 tion expanding or contracting the boundary of the Alaska Chilkat Bald
16 Eagle Preserve in the future; the legislature further determines that
17 study by a state agency of the expansion or contracting of the boundary
18 of the preserve shall be conducted under AS 41.20.507(j).

19 (d) Inasmuch as the area described in AS 41.20.507(k) exceeds 640
20 acres, AS 41.20.506 - 41.20.525 are intended to close the area to mul-
21 tiple use in conformity with AS 38.05.300 and the land is dedicated as a
22 special purpose site under art. VIII, sec. 7 of the state constitution.

23 Sec. 41.20.507. ESTABLISHMENT AND MANAGEMENT. (a) Subject to
24 valid existing rights, the land and water presently owned by the state
25 and all land and water acquired in the future by the state lying within
26 the boundaries described in (k) of this section are designated the
27 Alaska Chilkat Bald Eagle Preserve and assigned to the Department of
28 Natural Resources for control, development, and maintenance.

29 (b) Private land, approved or pending Native allotments, pending

1 and approved land selections made by the Haines Borough under state law
2 on the effective date of this Act, University of Alaska grant land not
3 located within the Chilkat River Critical Habitat Area established by
4 AS 16.20.230(8) and existing transportation and utility corridors
5 located partially or completely within the Alaska Chilkat Bald Eagle
6 Preserve are excluded from the Alaska Chilkat Bald Eagle Preserve. The
7 commissioner of natural resources may not acquire private land or
8 University of Alaska grant land located partially or completely within
9 the Alaska Chilkat Bald Eagle Preserve by eminent domain for any purpose.

0 (c) Approved or pending Native allotments located partially or
1 completely within the Alaska Chilkat Bald Eagle Preserve are not ad-
2 versely affected by the establishment of the Alaska Chilkat Bald Eagle
3 Preserve and all approved allotments and all pending allotments located
4 partially or completely within the preserve shall be treated as private
5 land.

6 (d) The Department of Fish and Game is responsible for the manage-
7 ment of fish and game resources in the Alaska Chilkat Bald Eagle Pre-
8 serve under applicable law and consistent with the purposes of AS 41.-
9 20.506 - 41.20.525.

0 (e) The Department of Natural Resources shall consult with the
1 Department of Fish and Game, the United States Fish and Wildlife Ser-
2 vice, a local governing body of a municipality, any local fish and
3 game advisory committees, and the Alaska Chilkat Bald Eagle Preserve
4 Advisory Council established by AS 41.20.515 before adoption of reason-
5 able regulations governing public use and protection of the Alaska
6 Chilkat Bald Eagle Preserve. The Department of Fish and Game shall
7 consult with the Department of Natural Resources and the Alaska Chilkat
8 Bald Eagle Preserve Advisory Council in proposing regulations governing
9 fish and game management in the Alaska Chilkat Bald Eagle Preserve for

1 adoption by the Board of Fisheries or the Board of Game. The Department
 2 of Fish and Game and the Department of Natural Resources shall cooperate
 3 with the United States Fish and Wildlife Service in its administration
 4 of federal law governing the conservation of bald eagles.

5 (f) The state land and water described in (k) of this section are
 6 closed to mineral entry under AS 38.05.135 - 38.05.280, to commercial
 7 harvest of timber, and to sale under state land disposal laws. *and to municipal selections made after the effective date of this act*
 8 The commissioner of natural resources may lease the land described in (k) of
 9 this section under AS 38.05.070 - 38.05.105 for a purpose consistent
 10 with AS 41.20.506(a); a municipality may select land within the Alaska
 11 Chilkat Bald Eagle Preserve under law.

12 (g) Continued opportunities for traditional uses of the Alaska
 13 Chilkat Bald Eagle Preserve at levels and by methods and means that are
 14 compatible with the protection of the bald eagle population are guaran-
 15 teed. These historically compatible uses include but are not limited to
 16 hunting, trapping, fishing, berry picking, other subsistence and recrea-
 17 tional uses, operation of motorized vehicles, and the harvesting of
 18 personal-use firewood. The level and method or means of traditional use
 19 *shall be permitted to* may continue subject to reasonable regulation unless the director of
 20 the division of parks, Department of Natural Resources, after consulta-
 21 tion with the Alaska Chilkat Bald Eagle Preserve Advisory Council, makes
 22 a finding that the level or method and means of use is causing signifi-
 23 cant resource damage that is inconsistent with AS 41.20.506(a). The
 24 director of the division of parks shall hold a public hearing in Haines
 25 and Klukwan before restricting a traditional use permitted under this
 26 section.

27 (h) If privately owned land, *University of Alaska grant land,*
 28 valid mining rights, existing mineral leases, subsurface rights on
 29 private land, or other valid occupancy is surrounded by state land of

1 the Alaska Chilkat Bald Eagle Preserve or if privately owned land,
2 University of Alaska grant land, federal land, municipal land, or state
3 land not described in (k) of this section, valid mining claims, subsur-
4 face rights, or other valid occupancy on land not described in (k) of
5 this section does not have reasonable, timely, and economically feasible
6 access and egress by means other than crossing land designated as Alaska
7 Chilkat Bald Eagle Preserve land in (k) of this section, the director of
8 the division of parks shall grant a private landowner, the University of
9 Alaska, a holder of valid existing rights to land, or a state agency,
0 ~~municipality~~, or federal agency rights necessary to assure reasonable,
1 timely, and economically feasible access and egress. The rights of
2 access and egress granted under this subsection are subject to reasonable
3 regulation and stipulations established by the director of the division
4 of parks after consulting with the Alaska Chilkat Bald Eagle Preserve
5 Advisory Council to protect the purposes and values of the Alaska Chilkat
6 Bald Eagle Preserve and to minimize adverse environmental impacts in the
7 preserve. The director of the division of parks shall give favorable
8 consideration to applications for utility rights-of-way that are com-
9 patible with AS 41.20.506(a).

0 (i) The director of the division of parks and the Alaska Chilkat
1 Bald Eagle Advisory Council established under AS 41.20.515, in ~~written~~
2 consultation with the United States Fish and Wildlife Service, the
3 Department of Fish and Game, the Chilkat Indian Village, the Chilkoot
4 Indian Association, and other appropriate groups, may use information
5 gained through cooperative resource studies in the development of the
6 management plan for the Alaska Chilkat Bald Eagle Preserve and in deci-
7 sions affecting the management and administration of the preserve. The
8 director of the division of parks and the advisory council shall investi-
9 gate the need for additional research to increase knowledge and under-

standing of the natural and cultural resources of the area and to enhance the effective management of the Alaska Chilkat Bald Eagle Preserve.

(j) An agency of the state may not participate or cooperate with a federal or private study considering additions to or deletions from the area of the Alaska Chilkat Bald Eagle Preserve without giving 90 days prior notice to the Alaska Chilkat Bald Eagle Preserve Advisory Council. The director of the division of parks may waive the notice required by this subsection on his determination in writing to the advisory council that an emergency necessitates immediate study or a shorter period of notice to the advisory council.

(k) Except for University of Alaska grant land, the land and water owned by the state and all land and water acquired by the state in the future lying within the following described parcels are designated as the Alaska Chilkat Bald Eagle Preserve:

- (1) Township 26 South, Range 55 East, Copper River Meridian
 - Section 12: that portion within USS 3708
 - Section 13
 - Section 23: SE1/4NE1/4, NE1/4SE1/4, E1/2NW1/4SE1/4, S1/2SE1/4
 - Sections 24 and 25
 - Section 26: E1/2
 - Section 33: SE1/4SE1/4SE1/4
 - Section 34: E1/2NE1/4, E1/2SW1/4NE1/4, SE1/4NE1/4SW1/4, E1/2SW1/4SW1/4, SW1/4SW1/4SW1/4, SE1/4SW1/4, SE1/4
 - Section 35
 - Section 36: NE1/4NW1/4NE1/4, W1/2W1/2NE1/4, NW1/4, N1/2SW1/4, N1/2SW1/4SW1/4, SW1/4SW1/4SW1/4, NW1/4SE1/4-SW1/4, NW1/4SE1/4
- (2) Township 26 South, Range 56 East, Copper River Meridian

1 Section 7: SW1/4NE1/4, S1/2NW1/4, S1/2

2 Section 8: SE1/4SW1/4NW1/4, SE1/4NW1/4, SW1/4, that
3 portion of the S1/2NE1/4 within USS 3708

4 Section 17: W1/2NW1/4

5 Section 18

6 Section 19: W1/2, SW1/4SE1/4

7 Section 30: NE1/4NW1/4NE1/4, W1/2NW1/4NE1/4, NW1/4,
8 W1/2SW1/4

9 (3) Township 27 South, Range 55 East, Copper River Meridian

10 Section 2: NW1/4, W1/2NE1/4SW1/4, NW1/4SW1/4, N1/2SW1/4-
11 SW1/4, SW1/4SW1/4SW1/4, NW1/4SE1/4SW1/4, except USS 3744

12 Section 3

13 Section 4: NE1/4NE1/4NE1/4, S1/2NE1/4NE1/4, E1/2SW1/4-
14 NE1/4, SE1/4NE1/4, E1/2SE1/4SW1/4, SE1/4

5 Section 8: SE1/4SE1/4SW1/4, S1/2S1/2SE1/4, N1/2SE1/4-
6 SE1/4

7 Section 9: E1/2, E1/2NW1/4, N1/2NE1/4SW1/4, SE1/4NE1/4-
8 SW1/4, NW1/4SW1/4SW1/4, S1/2S1/2SW1/4

9 Section 10: W1/2W1/2NE1/4, W1/2

10 Section 15: NW1/4NW1/4NE1/4, S1/2NW1/4NE1/4, SW1/4NE1/4,
11 W1/2, W1/2SE1/4

12 Section 16: E1/2, NW1/4, N1/2SW1/4, NW1/4SE1/4SW1/4,
13 E1/2SE1/4SW1/4

14 Section 17: N1/2NE1/4, NE1/4SW1/4NE1/4, SE1/4NE1/4,
15 E1/2NE1/4NW1/4, N1/2NE1/4SE1/4, SE1/4NE1/4SE1/4

16 Section 21: E1/2, E1/2E1/2NW1/4, SW1/4SE1/4NW1/4, E1/2-
17 SW1/4, SE1/4SW1/4SW1/4

18 Section 22: SW1/4NE1/4NE1/4, W1/2E1/2, W1/2SE1/4NE1/4,
19 W1/2, W1/2E1/2SE1/4

1 Section 26: NW1/4NW1/4NW1/4, S1/2NW1/4NW1/4, SW1/4NW1/4,
2 W1/2E1/2SW1/4, W1/2SW1/4

3 Section 27

4 Section 28: E1/2, E1/2W1/2, E1/2W1/2W1/2

5 Section 33: N1/2NE1/4, E1/2SW1/4NE1/4, NW1/4SW1/4NE1/4,
6 SE1/4NE1/4, E1/2NE1/4NW1/4, NE1/4SE1/4, E1/2NW1/4SE1/4,
7 N1/2SE1/4SE1/4, SE1/4SE1/4SE1/4

8 Section 34

9 Section 35: NW1/4NW1/4NE1/4, S1/2NW1/4NE1/4, SW1/4NE1/4,
0 NW1/4SE1/4NE1/4, S1/2SE1/4NE1/4, W1/2, SE1/4

1 Section 36: W1/2SW1/4SW1/4

2 (4) Township 28 South, Range 55 East, Copper River Meridian

3 Section 1: S1/2SW1/4NW1/4, SW1/4

4 Section 2

5 Section 3: NE1/4, N1/2NW1/4, N1/2SW1/4NW1/4, SE1/4NW1/4,
6 NE1/4NE1/4SW1/4, N1/2SE1/4, SE1/4SE1/4

7 Section 4: E1/2NE1/4NE1/4

8 Section 10: that portion of Mosquito Lake

9 Section 11: N1/2, N1/2SE1/4, NE1/4SW1/4SE1/4, SE1/4SE1/4
0 except USS 3431

1 Section 12

2 Section 13: E1/2, NE1/4NW1/4, E1/2NW1/4NW1/4, NW1/4NW1/4
3 NW1/4, NW1/4SE1/4NW1/4, E1/2SE1/4NW1/4

4 Section 15: that portion of Mosquito Lake

5 Section 19: Lot 13

6 Section 24: E1/2E1/2, NE1/4NW1/4NE1/4

7 Section 25: Lots 9 - 11 and 16

8 Section 26: that portion of Lot 5 and NE1/4NW1/4 south
9 of the Haines Highway and Lots 1, 12, and 17

1 Section 27: Lots 5 - 8, 10, 13, 18, 19, and 22

2 Section 28, except S1/2S1/2, the south 660 feet of

3 Lots 5 - 7, and that portion north of the Haines Highway

4 Section 29, except S1/2S1/2S1/2, NE1/4SE1/4SE1/4, and

5 Lots 9, 14, 15, and 18

6 Section 30: Lot 11, and Lot 6 except the south 660 feet

7 Section 33: S1/2SE1/4SE1/4

8 Section 34: S1/2S1/2S1/2

9 Section 35: Lot 1

10 Section 36, except SW1/4NW1/4, S1/2, and the south 660

11 feet of Lots 3 - 4

12 (5) Township 28 South, Range 56 East, Copper River Meridian

13 Section 7: SW1/4NW1/4NW1/4, SW1/4NW1/4, SW1/4SE1/4NW1/4,

14 W1/2NE1/4SW1/4, SE1/4NE1/4SW1/4, NW1/4SW1/4, S1/2SW1/4,

15 SW1/4SW1/4SE1/4

16 Section 17: W1/2SW1/4SW1/4, SE1/4SW1/4SW1/4

17 Section 18: W1/2W1/2NE1/4, E1/2SW1/4NE1/4, SW1/4SE1/4-

18 NE1/4, W1/2, SE1/4

19 Section 19

20 Section 20: W1/2W1/2

21 Section 29: Lots 8 - 11

22 Section 30, except Lots 1, 4, 5, 8, 15 - 17, and the

23 NE1/4SW1/4

24 Section 31

25 Section 32, except USS 991, USS 2455, and Lots 1, 2,

26 and 24

27 Section 33. S1/2 except USS 2455 and Lots 18 - 21

28 Section 34: Lots 1, 2, S1/2NE1/4SW1/4, W1/2SW1/4SE1/4

29 SE1/4SW1/4SE1/4

- 1 (6) Township 28 South, Range 57 East, Copper River Meridian
 2 Section 22: NE1/4SW1/4, E1/2SE1/4SW1/4, W1/2NW1/4SE1/4,
 3 SW1/4SE1/4, NW1/4SE1/4SE1/4, S1/2SE1/4SE1/4
 4 Section 26: W1/2SW1/4NW1/4, W1/2W1/2SW1/4
 5 Section 27: E1/2E1/2, N1/2NW1/4NE1/4, SE1/4NW1/4NE1/4
 6 Section 34: NE1/4NE1/4, NE1/4SE1/4NE1/4
 7 Section 35: SW1/4SW1/4NE1/4, NW1/4NW1/4NW1/4, S1/2NW1/4-
 8 NW1/4, S1/2NW1/4, E1/2SW1/4, NW1/4NW1/4SE1/4, S1/2NW1/4
 9 SE1/4, S1/2SE1/4, SW1/4NE1/4SE1/4
- 10 (7) Township 29 South, Range 55 East, Copper River Meridian
 11 Section 1: S1/2NE1/4NE1/4, E1/2SW1/4NE1/4, N1/2SE1/4-
 12 NE1/4, SW1/4SE1/4NE1/4, NW1/4NE1/4SE1/4, NE1/4NW1/4SE1/4
- 13 (8) Township 29 South, Range 56 East, Copper River Meridian
 14 Section 1
 15 Section 2: N1/2NE1/4, E1/2SE1/4NE1/4, NE1/4NW1/4, E1/2-
 16 NE1/4SE1/4, NE1/4SE1/4SE1/4
 17 Section 4: W1/2NW1/4, W1/2SE1/4NW1/4, SE1/4SE1/4NW1/4,
 18 SW1/4, W1/2NW1/4SE1/4, SE1/4NW1/4SE1/4, SW1/4SE1/4,
 19 W1/2SE1/4SE1/4, SE1/4SE1/4SE1/4
 20 Section 5: E1/2, N1/2NW1/4, SE1/4NE1/4SW1/4, E1/2SE1/4-
 21 SW1/4
 22 Section 6: N1/2N1/2NE1/4, NE1/4NE1/4NW1/4, S1/2NE1/4-
 23 NW1/4, S1/2NW1/4NW1/4, N1/2SW1/4NW1/4, NW1/4SE1/4NW1/4
 24 Section 8, except SW1/4SW1/4 and S1/2SE1/4SW1/4
 25 Section 9
 26 Section 10: S1/2S1/2NE1/4, SW1/4NE1/4NW1/4, NW1/4NW1/4,
 27 S1/2NW1/4, S1/2
 28 Section 11: S1/2NE1/4, S1/2S1/2NW1/4, NE1/4SW1/4NW1/4,
 29 N1/2SE1/4NW1/4, S1/2

1 Sections 12, 13, 14

2 Section 15: N1/2, N1/2N1/2SW1/4, E1/2SE1/4, NW1/4SE1/4,
3 E1/2SW1/4SE1/4

4 Section 16: E1/2NE1/4, E1/2W1/2NE1/4, W1/2NW1/4NE1/4,
5 NW1/4SW1/4NE1/4, N1/2N1/2NW1/4, SE1/4NE1/4NW1/4, NE1/4-
6 SE1/4NW1/4

7 Section 17: N1/2NE1/4NE1/4

8 Section 22: N1/2NE1/4NE1/4, NE1/4NW1/4NE1/4

9 Section 23: that portion of the N1/2NW1/4 lying west of
10 Chilkat Lake

11 (9) Township 29 South, Range 57 East, Copper River Meridian

12 Section 4: NW1/4NW1/4SW1/4, S1/2NW1/4SW1/4, SW1/4SW1/4,
13 NW1/4SE1/4SW1/4, S1/2SE1/4SW1/4

14 Section 5, except N1/2NE1/4, NE1/4SE1/4NE1/4, and the
15 north 660 feet and the east 660 feet of Lot 2

16 Sections 6 - 8

17 USS 907

18 Section 9. W1/2W1/2NE1/4, SE1/4SW1/4NE1/4, SW1/4SE1/4-
19 NE1/4, NW1/4, S1/2

20 Section 10: Lots 1 - 4, W1/2NE1/4SW1/4, NW1/4SE1/4-
21 SW1/4, E1/2SW1/4SE1/4SW1/4

22 Section 14: that portion west of the Haines Highway

23 Section 15, except NE1/4NE1/4 and Lots 7 - 10, 13 - 14

24 Sections 16 - 18

25 USS 786

26 Section 19: NE1/4NE1/4NE1/4

27 Section 20: NE1/4, E1/2NW1/4, NW1/4NW1/4, E1/2SW1/4NW1/4,
28 NE1/4SE1/4, N1/2NW1/4SE1/4, SE1/4NW1/4SE1/4, NE1/4SE1/4-
29 SE1/4

1 Sections 21 and 22

2 Section 23: that portion west of the Haines Highway

3 Section 25: that portion west of the Haines Highway

4 Section 26: that portion west of the Haines Highway

5 Section 27

6 Section 28: NE1/4, NE1/4NW1/4, N1/2NW1/4NW1/4, N1/2SE1/4

7 NW1/4, NE1/4SE1/4, N1/2NW1/4SE1/4, SE1/4NW1/4SE1/4,

8 NE1/4SE1/4SE1/4

9 Section 34: NE1/4, NE1/4NW1/4, NE1/4SE1/4NW1/4, NE1/4-

10 SE1/4, NE1/4NW1/4SE1/4, E1/2SE1/4SE1/4

11 Section 35

12 Section 36: that portion west of the Haines Highway

13 (10) Township 29 South, Range 58 East, Copper River Meridian

14 Section 3: S1/2SW1/4NW1/4, SW1/4NE1/4SW1/4, W1/2SW1/4,

15 SE1/4SW1/4, S1/2SW1/4SE1/4

16 Section 4: SW1/4NE1/4NE1/4, W1/2NE1/4, SE1/4NE1/4, NW1/4,

17 NE1/4SW1/4, SE1/4

18 Section 9: NE1/4NE1/4

19 Section 10: N1/2, E1/2SW1/4, E1/2W1/2SW1/4, NW1/4NW1/4-

20 SW1/4, SE1/4

21 (11) Township 30 South, Range 57 East, Copper River Meridian

22 Section 1

23 Section 2: NE1/4, NE1/4NW1/4, N1/2NW1/4NW1/4, SE1/4NW1/4-

24 NW1/4, N1/2SE1/4NW1/4, SE1/4SE1/4NW1/4, N1/2SE1/4,

25 N1/2SE1/4SE1/4

26 Section 3: NE1/4NE1/4NE1/4

27 Section 12: NE1/4, NE1/4NW1/4, NE1/4NW1/4NW1/4, NE1/4-

28 SE1/4NW1/4, W1/2NE1/4SE1/4, NE1/4NW1/4SE1/4, E1/2E1/2-

29 SE1/4, NW1/4SE1/4SE1/4

1 Section 13: NE1/4NE1/4NE1/4

2 (12) Township 30 South, Range 58 East, Copper River Meridian

3 Section 6: that portion west of the Haines Highway

4 Section 7: that portion west of the Haines Highway

5 Section 8: that portion west of the Haines Highway

6 Section 16: that portion west of the Haines Highway

7 Section 17: that portion west of the Haines Highway

8 Section 18: Lots 1 - 3 and 5, SW1/4NE1/4, N1/2SE1/4NW1/4

9 SE1/4SE1/4NW1/4, SE1/4

0 (l) Historical, cultural, and burial sites identified in the
1 Alaska Chilkat Bald Eagle Preserve management plan are not available for
2 surface disposal under AS 41.20.507(f) and shall be managed by the
3 director of parks to prevent vandalism, destruction, and desecration.

4 (m) The director of the division of parks and the director of the
5 division of forestry shall consult in the preparation of the management
6 plan prepared under AS 41.20.507(i) to promote effective, efficient, and
7 coordinated administration of the Haines State Forest Resource Manage-
8 ment Area and the Alaska Chilkat Bald Eagle Preserve for the purposes
9 and values for which each is established.

0 (n) University of Alaska grant land located within the boundary of
1 the Chilkat River Critical Habitat Area established under AS 16.20.230(8)
2 is excluded from the Alaska Chilkat Bald Eagle Preserve.

3 Sec. 41.20.515. ALASKA CHILKAT BALD EAGLE PRESERVE ADVISORY COUN-
4 CIL. (a) A 12-member Alaska Chilkat Bald Eagle Preserve Advisory
5 Council is established. The members of the advisory council shall be
6 selected under this section. Members of the advisory council or their
7 alternates are entitled to the per diem and travel expenses authorized
8 for members of state boards under AS 39.20.180.

9 (b) The governor may appoint individuals to the Alaska Chilkat

1 Bald Eagle Preserve Advisory Council representing the following inter-
2 ests for a two-year term:

3 (1) a resident of the Haines Borough representing a conserva-
4 tion organization; and

5 (2) a representative of the United States Fish and Wildlife
6 Service.

7 (c) The mayor of the City of Haines, the mayor of the Haines
8 Borough, the president of Klukwan, Inc., the chairman of the Council of
9 the Chilkat Indian Village, and the chairman of the Chilkoot Indian
10 Association are ex officio members of the Alaska Chilkat Bald Eagle
11 Preserve Advisory Council. The mayor of the Haines Borough may recom-
12 mend to the governor for appointment to the advisory council the name of
13 a resident of the Haines Borough for the representation of commercial or
14 industrial interests.

15 (d) The commissioner of fish and game, the director of the divi-
16 sion of parks, and the director of the division of forestry, or their
17 designees, serve ex officio as members of the Alaska Chilkat Bald Eag
18 Preserve Advisory Council.

19 (e) The Alaska Chilkat Bald Eagle Preserve Advisory Council shall
20 assist the Department of Natural Resources in the development and moni-
21 toring of a management plan for the Alaska Chilkat Bald Eagle Preserve.
22 The management plan shall be presented at public hearings in Haines and
23 Klukwan before approval and implementation by the department.

24 (f) Members of the Alaska Chilkat Bald Eagle Preserve Advisory
25 Council selected under (b) - (d) of this section may select alternates
26 to act as members of the advisory council in their absence.

27 Sec. 41.20.525. EXISTING RIGHTS. The establishment of the Alaska
28 Chilkat Bald Eagle Preserve under AS 41.20.506 - 41.20.525 does not
29 enlarge, diminish, add to, or waive a requirement of law otherwise

1 applicable to the management or use of the state land of the Haines
2 State Forest Resource Management Area (AS 41.15.500 - 41.15.520) or
3 private land. An activity allowed under law on land not described in
4 AS 41.20.507(k), including but not limited to an activity described in
5 AS 41.20.507(g), timber harvest, mining, resource development, and
6 recreation, is permitted so long as the activity is conducted in comp
7 anance with law.

8 * Sec. 2. AS 41.15 is amended by adding new sections to read:

9 ARTICLE 3A. HAINES STATE FOREST RESOURCE MANAGEMENT AREA.

0 Sec. 41.15.500. HAINES STATE FOREST RESOURCE MANAGEMENT AREA. (a)

1 The purpose of AS 41.15.500 - 41.15.520 is to establish the land and
2 water presently owned by the state and all land and water acquired in
3 the future by the state lying within the boundaries described in AS 41.-
4 15.510(a) as the Haines State Forest Resource Management Area. The
5 primary purposes for the establishment of the Haines State Forest Re-
6 source Management Area are the utilization, perpetuation, conservation,
7 and production of the land and water including but not limited to the
8 use of renewable and nonrenewable resources through multiple-use manage-
9 ment and the continuation of other beneficial uses including traditional
0 uses and other recreational activities.

1 (b) The responsibility for the management, control, development,
2 and maintenance of the Haines State Forest Resource Management Area
3 established under AS 41.15.500 - 41.15.520 is assigned to the Department
4 of Natural Resources.

5 Sec. 41.15.510. BOUNDARIES AND MANAGEMENT OF HAINES STATE FOREST
6 RESOURCE MANAGEMENT AREA. (a) Subject to valid existing rights, the
7 land and water presently owned by the state and all land and water
8 acquired in the future by the state lying within the following described
9 parcels are designated as the Haines State Forest Resource Management

1 Area:

2 (1) All lands encompassed by U.S. Survey 3708, Tracts A, B
3 and C but excluding U.S.M.S. 2206.

4 (2) Those mental health lands (MH-153) approved in the state
5 selection letter from the United States Bureau of Land Management dated
6 August 26, 1974, described as follows: Beginning at corner No. 1 of
7 this tract which is common to angle point No. 5 of U.S. Survey 3708,
8 then north $02^{\circ}13'51''$ west 52.639 chains along the survey line to corner
9 No. 2 of this tract which is common to angle point No. 6 of U.S. Survey
10 3708, then north $12^{\circ}01'18''$ west 13.346 chains to corner No. 3 of this
11 tract which is common to angle point No. 7 of U.S. Survey 3708, then
12 north $53^{\circ}57'42''$ west 537.070 chains to corner No. 4 of this tract which
13 is common to angle point No. 7-A of U.S. Survey 3708, then south $0^{\circ}0'30''$
14 east 63.06 chains to corner No. 5 of this tract, then south $53^{\circ}57'42''$
15 east 542.00 chains to corner No. 1 of this tract and angle point No. 5,
16 U.S. Survey 3708, the point of beginning.

17 (3) Township 28 South, Range 56 East, Copper River Meridian
18 Section 29: that portion of the N1/2 lying east of
19 U.S.S. 3708

20 Section 34: NW1/4, SE1/4

21 (4) Township 28 South, Range 57 East, Copper River Meridian

22 (5) Township 28 South, Range 58 East, Copper River Meridian

23 (6) Township 29 South, Range 57 East, Copper River Meridian

24 Section 36: that portion of Lots 1, 5, 6, and 10 lying
25 east of U.S.S. 3708

26 (7) Township 29 South, Range 58 East, Copper River Meridian

27 (8) Township 29 South, Range 59 East, Copper River Meridian

28 (9) Township 29 South, Range 60 East, Copper River Meridian
29 Sections 19 - 36

- 1 (10) Township 29 South, Range 61 East, Copper River Meridian
2 Sections 19 - 36
- 3 (11) Township 29 South, Range 62 East, Copper River Meridian
4 Sections 19 and 20
5 Sections 29 - 32
- 6 (12) Township 30 South, Range 57 East, Copper River Meridian
7 Section 1: that portion of Lot 1 lying east of U.S.S.
8 3708
- 9 (13) Township 30 South, Range 58 East, Copper River Meridian
10 That portion lying east and south of U.S.S. 3708
- 11 (14) Township 30 South, Range 59 East, Copper River Meridian
12 Sections 1- 10
13 Section 12
14 Sections 14 - 23
15 Section 27: that portion lying west of the Haines
16 Corporation boundary
17 Sections 28 - 31
18 Section 33
- 19 (15) Township 30 South, Range 60 East, Copper River Meridian
- 20 (16) Township 30 South, Range 61 East, Copper River Meridian
- 21 (17) Township 30 South, Range 62 East, Copper River Meridian
22 Sections 5 - 8
23 Sections 17 - 20
24 Sections 29 - 32
- 25 (18) Township 31 South, Range 58 East, Copper River Meridian
- 26 (19) Township 31 South, Range 59 East, Copper River Meridian
27 Sections 6 - 8
28 Sections 16 - 22
29 Sections 27 - 34

1 (20) Township 31 South, Range 60 East, Copper River Meridian
2 Sections 1 - 4

3 Sections 9 - 15

4 Sections 22 - 24

5 Sections 35 and 36

6 (21) Township 31 South, Range 61 East, Copper River Meridian
7 Sections 1 - 30

8 (22) Township 31 South, Range 62 East, Copper River Meridian
9 Sections 5 - 8

10 Sections 17 - 20

11 Sections 31 and 32

12 (23) Township 32 South, Range 59 East, Copper River Meridian
13 Sections 3 - 33

14 Sections 34 - 36: that portion lying north of the Tongass
15 National Forest boundary

16 (b) Private land, University of Alaska grant land, existing trans-
17 portation corridors, and borough selection within the Haines State
18 Forest Resource Management Area are excluded from the Haines State
19 Forest Resource Management Area. The commissioner of natural resources
20 may not acquire private land or University of Alaska grant land located
21 within the Haines State Forest Resource Management Area by eminent
22 domain for any purpose.

23 (c) Approved or pending Native allotment applications located
24 partially or completely within the Haines State Forest Resource Manage-
25 ment Area are not adversely affected by the establishment of the Haines
26 State Forest Resource Management Area and all approved allotments and
27 all pending allotments shall be treated as private land.

28 (d) The division of forestry shall consult with the division of
29 parks, the Department of Fish and Game, including each local fish and

1 game advisory committee with jurisdiction in the area, and the Alaska
2 Chilkat Bald Eagle Preserve Advisory Council to promote effective,
3 efficient, and coordinated administration of the Haines State Forest
4 Resource Management Area and the Alaska Chilkat Bald Eagle Preserve for
5 the values for which each is established.

6 (e) Resource studies undertaken by the Department of Natural
7 Resources shall be designed to benefit the management and administration
8 of the Haines State Forest Resource Management Area and the Alaska
9 Chilkat Bald Eagle Preserve.

10 (f) The establishment of the Haines State Forest Resource Manage-
11 ment Area has no effect on the terms and conditions of an existing
12 permit or contract involving use of the land, water, or other resources
13 of the Haines State Forest Resource Management Area.

14 Sec. 41.15.520. MULTIPLE-USE MANAGEMENT. (a) The Haines State
15 Forest Resource Management Area shall be managed under the principles of
16 multiple use and sustained yield as defined in AS 38.04.910, under
17 AS 41.17, and under a management plan prepared by the Department of
18 Natural Resources. The plan may not be adopted or revised without prior
19 review by the Board of Forestry or without a public hearing held in
20 Haines and Klukwan.

21 (b) The Department of Natural Resources shall periodically review
22 and revise the management plan adopted for the Haines State Forest
23 Resource Management Area under (a) of this section. The management plan
24 shall be based on an existing operational level inventory and revised as
25 future inventory information becomes available to the department.

26 (c) A copy of a management plan and any revision to it prepared by
27 the Department of Natural Resources, reviewed by the Board of Forestry
28 and adopted by the department after public hearings required under (a)
29 of this section shall be provided to the legislature within 30 days of

1 its adoption or revision or within the first 10 days of the first
2 session of the legislature to convene after its adoption or revision.

3 (d) The Department of Fish and Game is responsible for the manage-
4 ment of fish and game resources in the Haines State Forest Resource
5 Management Area under applicable law and in a manner consistent with
6 AS 41.15.500 - 41.15.520 except that an opportunity for continued
7 traditional use of the Haines State Forest Resource Management Area at
8 levels and by traditional methods and means is guaranteed. The tradi-
9 tionally compatible uses include but are not limited to fishing, hunting,
10 trapping, berry picking, subsistence, and recreational uses, operation
11 of motorized vehicles, and the harvest of personal-use firewood.

12 (e) The control of highway access and roadside structures within
13 the Haines State Forest Resource Management Area is the responsibility
14 of the Department of Natural Resources except that the Department of
15 Transportation and Public Facilities is responsible for the repair and
16 maintenance of public roads in the Haines State Forest Resource Manage-
17 ment Area.

18 (f) The state land and water described in AS 41.15.510(a) are
19 closed to sale under state land disposal laws. ^{and to municipal selections made after effective date} The commissioner of
20 natural resources may lease the land described in AS 41.15.510(a) under
21 AS 38.05.070 - 38.05.105 for a purpose consistent with AS 41.15.500(a)
22 and a municipality may select land in the Haines State Forest Resource
23 Management Area under law.

24 (g) The Department of Natural Resources shall consult with the
25 Department of Fish and Game and the governing bodies of each municipi-
26 ~~pality in the general area~~ during preparation of a management plan under
27 (a) and (b) of this section and during formulation of regulations govern-
28 ing the use of the Haines State Forest Resource Management Area. The
29 Department of Fish and Game shall consult with the Department of Natural

1 Resources and local fish and game advisory committees before adopting
2 regulations governing fish and wildlife management in the Haines State
3 Forest Resource Management Area. Regulations may not be adopted by
4 either department without prior review at a public hearing in Haines and
5 Klukwan. *SP*

6 (h) The Department of Natural Resources may enter into cooperative
7 management agreements with a person who holds title to or has a valid
8 entry on land within or adjoining the boundaries of the Haines State
9 Forest Resource Management Area.

10 * Sec. 3. The management plan for the Alaska Chilkat Bald Eagle Preserve
11 prepared by the Department of Natural Resources under AS 41.20.507(i) as
12 enacted in sec. 1 of this Act shall be adopted and implemented within two
13 years after the effective date of this Act.

14 * Sec. 4. The management plan for the Haines State Forest Resource Manage-
15 ment Area prepared by the Department of Natural Resources under AS 41.15.520
16 enacted in sec. 2 of this Act shall be adopted and implemented within two
17 years after the effective date of this Act. The Haines-Skagway Area Land Use
18 Plan adopted by the Department of Natural Resources in 1979 shall be used as
19 the basis for preparation of the initial management plan for the Haines State
20 Forest Resource Management Area. Before approval of the management plan
21 prepared under AS 41.15.520, management of the Haines State Forest Resource
22 Management Area shall be conducted under the land use allocations and the
23 appropriate management provisions of the Haines-Skagway Area Land Use Plan.

24 * Sec. 5. This Act takes effect July 1, 1982.
25
26
27
28
29

State Marine
Park System
(establishing)

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 794 (FIN). (see pp. 247;635;740;835). Reported back to the House on May 7 by Resources with the committee recommending it be replaced with House Resources CS and as follows: Sutcliffe (Co-Chmn.) and Grussendorf signed no recommendation; Carney signed do pass; Fanning signed do not pass. To Rules.

House Resources version makes the following changes:

--Changes new AS 41.20.515(b), "Designation of Management Responsibility," to read: ". . . The Department of Fish and Game shall give written notice to [CONSULT WITH] the Department of Natural Resource before adoption of regulations governing fish and game management in a unit of the Alaska marine park system." (Bracketed material deleted, underlined material added.)

--Changes rewrite of AS 16.20.170, "Management of McNeil River and Cape Seniavin State Game Sanctuaries," by deleting: "Surface entry for oil and gas exploration and development and mineral leasing and the acquisition and development of mining rights within the Cape Seniavin State Game Sanctuary is prohibited." Changes (b) to read: "The provisions of AS 16.20.120 and 16.20.130 relating to the administration and multiple use of the Walrus Islands State Game Sanctuary apply also the Cape Seniavin State Game Sanctuary."

*Changes IN
House*

Chilkat Bald
Eagle Pres./
Haines For.
Res. Mgmt.
Area

COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 796 (FIN)(AMENDED), (see pages 249;359;748;756). Reported back to the House on May 3 by Resources with the committee recommending it be replaced with House Resources CS and as follows: Fanning (Co-Chmn.), Barnes and Carney signed no recommendation; Sutcliffe signed do pass. To Rules.

The House Resources CS adds language to section governing use of land in the Bald Eagle Preserve: "A permittee or licensee of an owner of land or holder of valid existing rights to land may use access and egress granted under this subsection." (Added to subsection (h) on p. 5.) Also adds: "As used in this subsection, 'valid existing rights' includes but is not limited to valid mining rights, existing mineral rights, and subsurface rights."

Deletes provision which would have allowed members on the Alaska Chilkat Bald Eagle Preserve Advisory Council to receive per diem and travel expenses authorized for members of state boards under AS 39.20.180. Adds that the Governor must appoint to the Advisory Council a member of the Upper Lynn Canal fish and game advisory committee.

Changes provision relating to the management of land in the Haines State Forest Resource Mgmt. Area: "The control of highway access [AND ROADSIDE STRUCTURES] within the Haines State Forest Resource Management Area is the responsibility of the Department of Natural Resources . . ." (bracketed material deleted).

Real Estate
Commission

SENATE BILL NO. 816, (see pages 325;681;692;761). Reported back to the House on May 6 by Finance with the committee



Alaska State Legislature

SENATE Resources Committee

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

TO: Billy Berrier, Director
Legal Services

DATE: 4/14/82

ATTN: Bradley

FROM: Bettye Fahrenkamp *B.F.*
Chairman

RE: FINAL: CSSSSB 796

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Attached is a copy of a work draft CSSSSB 796 that the Committee would like put into final form. We would like the final bill to incorporate the changes noted on the work draft. Instead of listing the individual changes in this memo I am attaching a staff memo that outlines the changes.

If you have any questions please contact Resa King at 465-3834.

When the bill is completed please return it to Room 211 Capitol Building.

Bradley
4/13/82

Original sponsor: Ray

IN THE SENATE

BY THE RESOURCES COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 796 (Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act providing for the management of state-owned land in the Haines area; establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area AND PROVIDING FOR AN EFFECTIVE DATE."

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

* Section 1. AS 41.20 is amended by adding new sections to read:

ARTICLE 16. ALASKA CHILKAT BALD EAGLE PRESERVE

Section 41.20.506. DECLARATION OF PURPOSE. (a) The purpose of AS 41.20.506 - 41.20.525 is to establish the state-owned land and water described in AS 41.20.507^(K) as the Alaska Chilkat Bald Eagle Preserve as part of the state park system. The primary purpose of establishing the Alaska Chilkat Bald Eagle Preserve is to protect and perpetuate the Chilkat bald eagles and their essential habitats within the Alaska Chilkat Bald Eagle Preserve in recognition of their statewide, nationally, and internationally significant values in perpetuity.

(b) The Alaska Chilkat Bald Eagle Preserve is also established to

(1) protect and sustain the natural salmon spawning and rearing areas of the Chilkat River and Chilkoot River systems within the preserve in perpetuity;

(2) provide continued opportunities for research, study and enjoyment of bald eagles and other wildlife;

(3) ensure to the maximum extent practicable water quality and necessary water quantity under applicable laws; and

(4) provide for other public uses consistent with the primary

purpose for which the Alaska Chilkat Bald Eagle Preserve is established.

(c) It is the intent of the legislature in enacting this legislation to provide sufficient protection for the purposes for which the Alaska Chilkat Bald Eagle Preserve is established. Accordingly, the establishment of the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area is determined to represent a proper balance between the reservation of state public domain land and water ^{* STATE PUBLIC DOMAIN LAND AND WATER} for bald eagle preserve purposes and more

appropriate for multiple use. Therefore, the legislature determines

* THERE IS NO need for legislation expanding or contracting the boundary of the Alaska Chilkat Bald Eagle Preserve in the future, ^{without proper study pursuant to AS 41.20.507(2)} ~~is unnecessary.~~

(d) Inasmuch as the area described in AS 41.20.507 ⁽²⁾ exceeds 640 acres, AS 41.20.506 - 41.20.525 are intended to close the area to multiple use in conformity with AS 38.05.300 and the land is dedicated as a special purpose site under art. VIII, sec. 7 of the ^{* STATE} constitution.

Sec. 41.20.507. ESTABLISHMENT AND MANAGEMENT. (a) Subject to valid existing rights, the land and water presently owned by the state and all land and water acquired in the future by the state lying within the boundaries described in (k) of this section are designated the Alaska Chilkat Bald Eagle Preserve and assigned to the Department of Natural Resources for control, development, and maintenance.

* PENDING AND APPROVED
(b) Private land, [^] land selections made by the Haines Borough under state law on the effective date of this Act, and existing transportation and utility corridors located partially or completely within the Alaska Chilkat Bald Eagle Preserve are excluded from the Alaska Chilkat Bald Eagle Preserve. The commissioner of natural resources may not acquire private land located partially or completely within the Alaska Chilkat Bald Eagle Preserve by eminent domain for any purpose.

(c) Approved or pending Native allotments located partially or

1 completely within the Alaska Chilkat Bald Eagle Preserve are not ad-
 2 versely affected by the establishment of the Alaska Chilkat Bald Eagle
 3 Preserve and all approved allotments and all pending allotments located
 4 partially or completely within the preserve ^{* SHALL BE TREATED AS} private land under
 5 AS 41.20.506 - 41.20.5^{*}5 INCLUDING BUT NOT LIMITED TO RIGHTS OF WAY
 6 ACQUISITION.

7 (d) The Department of Fish and Game is responsible for the manage-
 8 ment of fish and game resources in the Alaska Chilkat Bald Eagle Pre-
 9 serve under applicable law and consistent with the purposes of AS 41.-
 20.506 - 41.20.5^{*}5.

10 (e) The Department of Natural Resources shall consult with the
 11 Department of Fish and Game, the United States Fish and Wildlife Ser-
 12 vice, and the Alaska Chilkat Bald Eagle Preserve Advisory Council estab-
 13 lished by AS 41.20.515 before adoption of reasonable regulations govern-
 14 ing public use and protection of the Alaska Chilkat Bald Eagle Preserve.
 15 The Department of Fish and Game shall consult with the Department of
 16 Natural Resources and the Alaska Chilkat Bald Eagle Preserve Advisory
 17 Council in proposing regulations governing fish and game management in
 18 the Alaska Chilkat Bald Eagle Preserve for adoption by the Board of
 19 Fisheries or the Board of Game. The Department of Fish and Game and the
 20 Department of Natural Resources shall cooperate with the United States
 21 Fish and Wildlife Service in its administration of ^{* FEDERAL} laws that govern the
 22 conservation of bald eagles.

23 (f) The state land and water described in (k) of this section are
 24 closed to mineral entry under AS 38.05.135 - 38.05.280, to commercial
 25 harvest of timber, to sale under state land disposal laws, and to muni-
 26 cipal selections made after the effective date of this Act. The commi-
 27 sioner of natural resources may lease the land described in (k) of this
 28 section under AS 38.05.070 - 38.05.105 for a purpose consistent with
 29 AS 41.20.506(a).

1 (g) Continued opportunities for traditional uses of the Alaska
 2 Chilkat Bald Eagle Preserve at levels and by methods and means that are
 3 compatible with the protection of the bald eagle population are guaran-
 4 teed. These historically compatible uses include but are not limited to
 5 hunting, trapping, fishing, berry picking, other subsistence and recrea-
 6 tional uses, operation of motorized vehicles, and the harvesting of
 7 personal-use firewood. The level and method or means of traditional use
 8 shall be permitted to continue subject to reasonable regulation unless
 9 the director of the division of parks, Department of Natural Resources,
 10 after consultation with the Alaska Chilkat Bald Eagle Preserve Advisory
 11 Council, makes a finding that the level or method and means of use is
 12 causing significant resource damage that is inconsistent with the [primary]
 13 purposes of AS 41.20.506 - 41.20.525. The director of the division of
 14 parks shall hold a public hearing in Haines and Klukwan before restrict-
 15 ing a traditional use permitted under this section.

16 (h) If privately owned land, valid mining rights, existing mineral
 17 leases, subsurface rights on private land, or other valid occupancy is
 18 surrounded by state land of the Alaska Chilkat Bald Eagle Preserve or if
 19 privately owned land, federal land, or state land not described in (k)
 20 of this section, valid mining claims, subsurface rights, or other valid
 21 occupancy ^{* ON LAND} not described in (k) of this section does not have reasonable,
 22 timely, and economically feasible access and egress by means other than
 23 crossing land designated as Alaska Chilkat Bald Eagle Preserve land in
 24 (k) of this section, the director of the division of parks shall grant a
 25 private landowner, a holder of a valid mining claim, ^{* HOLDER OF} mineral lease,
 26 ^{HOLDER OF} OTHER VALID OCCUPANCY, [^] subsurface rights, [^] or a state agency or federal agency rights necessary
 27 to assure reasonable, timely, and economically feasible access and
 28 egress. The rights of access and egress granted under this subsection
 29 are subject to reasonable regulation and stipulations established by the

1 director of the division of parks after consulting with the Alaska
 2 Chilkat Bald Eagle Preserve Advisory Council ^{* IN THE FURTHERANCE OF THE PURPOSES AND} to protect the values of
 3 the Alaska Chilkat Bald Eagle Preserve and to minimize adverse environ-
 4 mental impacts in the preserve. The director of the division of parks
 5 shall give favorable consideration to applications for utility rights-
 6 of-way that are compatible with AS 41.20.506(a).

7 (i) The director of the division of parks and the Alaska Chilkat
 8 Bald Eagle Advisory Council established under AS 41.20.515, in consulta-
 9 tion with the United States Fish and Wildlife Service, the Department of
 10 * INCLUDING BUT NOT LIMITED TO THE CHILKAT INDIAN VILLAGE AND CHILKOOT
 11 fish and Game, and other pertinent sources, may use information gained
 12 INDIAN ASSOCIATION
 13 through cooperative resource studies in the development of the management
 14 plan for the Alaska Chilkat Bald Eagle Preserve and in decisions affect-
 15 ing the management and administration of the preserve. The director of
 16 the division of parks and the advisory council shall investigate the
 17 need for additional research to increase knowledge and understanding of
 18 * AND CULTURAL
 19 the natural resources of the area and to enhance the effective management
 20 of the Alaska Chilkat Bald Eagle Preserve.

21 (j) An agency of the state may not participate or cooperate with a
 22 federal or private study considering additions to or deletions from the
 23 area of the Alaska Chilkat Bald Eagle Preserve without giving 90 days
 24 prior notice to the Alaska Chilkat Bald Eagle Preserve Advisory Council.
 25 The director of the division of parks may waive the notice required by
 26 this subsection on his determination in writing to the advisory council
 27 that an emergency necessitates immediate study or a shorter period of
 28 notice to the advisory council.

29 (k) The land and water owned by the state and all land and water
 acquired by the state in the future lying within the following described
 parcels are designated as the Alaska Chilkat Bald Eagle Preserve:

Legal description

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Sec. 41.20.515. ALASKA CHILKAT BALD EAGLE PRESERVE ADVISORY COUNCIL. (a) A 12-member Alaska Chilkat Bald Eagle Preserve Advisory Council is established. The members of the advisory council shall be selected under this section. Members of the advisory council are entitled to the per diem and travel expenses authorized for members of state boards under AS 39.20.180.

(b) The governor may appoint individuals to the Alaska Chilkat Bald Eagle Preserve Advisory Council representing the following interests for a two-year term:

(1) a resident of the Haines Borough representing a conservation organization; and

(2) a representative of the United States Fish and Wildlife Service.

(c) The mayor of the City of Haines, the mayor of the Haines Borough, the president of Klukwan, Inc., ~~and~~ the chairman ^{men} of the Council * AND CHILKOOT INDIAN ASSOCIATION OR THEIR DESIGNEE of the Chilkat Indian Village ^{are} ex officio members of the Alaska Chilkat Bald Eagle Preserve Advisory Council. The mayor of the Haines Borough may recommend to the governor ^{in appointment to the Advisory Council} the name of a resident of the Haines Borough for the representation of commercial or industrial interests.

(d) The commissioner of fish and game, the director of the division of parks, and the director of the division of forestry, or their designees, serve ~~as~~ ex officio as members of the Alaska Chilkat Bald Eagle

Preserve

1 Advisory Council.

2 (e) The Alaska Chilkat Bald Eagle Preserve Advisory Council shall
3 assist the Department of Natural Resources in the development and moni-
4 toring of a management plan for the Alaska Chilkat Bald Eagle Preserve.
5 The management plan shall be presented at public hearings in Haines and
6 Klukwan before approval and implementation by the department.

* (F) ALL HISTORICAL, CULTURAL AND BURIAL SITES IDENTIFIED
IN THE CHILKAT BALD EAGLE PRESERVE MANAGEMENT PLAN SHALL BE PROTECTED
BY THE DEPARTMENT OF NATURAL RESOURCES FROM VANDALISM, DESECRATION
AND DISTRUCTION.

7 Sec. 41.20.525. MISCELLANEOUS PROVISIONS. (a) The establishment
8 of the Alaska Chilkat Bald Eagle Preserve under AS 41.20.506 - 41.20.525
9 does not enlarge, diminish, add to, or waive a requirement otherwise
10 applicable to the management or use of the state land of the Haines
11 State Forest Resource Management Area ^(AS 41.15.500 - 41.15.520) or private land. An activity
12 ^{* ADJACENT TO} allowed under law on land ~~of~~ the Alaska Chilkat Bald Eagle Preserve,
13 including but not limited to timber harvest, mining, resource develop-
14 ment, or recreation, is permitted ~~on private land~~ as long as the activity
15 is conducted in compliance with law.

16 (b) The director of the division of parks and the director of the
17 division of forestry shall consult in the preparation of the management
18 plan prepared under AS 41.20.507(i) to promote effective, efficient, and
19 coordinated administration of the Haines State Forest Resource Management
20 Area and the Alaska Chilkat Bald Eagle Preserve ^{PURPOSES AND} for the values for which
21 each is established.

* Sec. 2. AS 41.15 is amended by adding new sections to read:

23 ARTICLE 3A. HAINES STATE FOREST RESOURCE MANAGEMENT AREA.

24 Sec. 41.15.500. HAINES STATE FOREST RESOURCE MANAGEMENT AREA. (a)
25 The purpose of AS 41.15.500 - 41.15.520 is to establish the land and
26 water presently owned by the state and all land and water acquired in
27 the future by the state lying within the boundaries described in AS 41.-
28 15.510(a) as the Haines State Forest Resource Management Area. The
29 primary purposes for the establishment of the Haines State Forest

1 Resource Management Area are the utilization, perpetuation, conservation
 2 and production of the land and water including but not limited to the
 3 use of renewable and nonrenewable resources through multiple-use manage-
 4 ment and the continuation of other beneficial uses including traditional
 5 uses and other recreational activities.

6 (b) The responsibility for the management, control, development,
 7 and maintenance of the Haines State Forest Resource Management Area
 8 established under AS 41.15.500 - 41.15.520 is assigned to the Department
 9 of Natural Resources.

10 Sec. 41.15.510. BOUNDARIES AND MANAGEMENT OF HAINES STATE FOREST
 11 RESOURCE MANAGEMENT AREA. (a) Subject to valid existing rights, the
 12 land and water presently owned by the state and all land and water
 13 acquired in the future by the state lying within the following described
 14 parcels are designated as the Haines State Forest Resource Management
 15 Area:

16 *Legal Description*
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 25 (b) Private land, existing transportation corridors, and borough
 26 selection within the Haines State Forest Resource Management Area are
 27 excluded from the Haines State Forest Resource Management Area. The
 28 commissioner of natural resources may not acquire private land within
 29 the Haines State Forest Resource Management Area by eminent domain for

1 any purpose.

2 (c) Approved or pending Native allotment applications located
3 partially or completely within the Haines State Forest Resource Manage-
4 ment Area are not adversely affected by the establishment of the Haines
5 State Forest Resource Management Area and all approved allotments and
6 all pending allotments ^{* SHALL BE TREATED AS} private land under AS 41.15.500 - 41.15.520.

7 (d) The division of Forestry shall consult with the division of
8 parks, the Department of Fish and Game, and the Alaska Chilkat Bald
9 Eagle Preserve Advisory Council to promote effective, efficient, and
10 coordinated administration of the Haines State Forest Resource Manage-
11 ^{ment} Area and the Alaska Chilkat Bald Eagle Preserve for the values for which
12 each is established.

13 (e) Resource studies undertaken by the Department of Natural
14 Resources shall be designed to benefit the management and administration
15 of the Haines State Forest Resource Management Area and the Alaska
16 Chilkat Bald Eagle Preserve.

17 (f) The establishment of the Haines State Forest Resource Manage-
18 ment Area has no effect on the terms and conditions of an existing
19 permit or contract involving use of the land, water, or other resources
20 of the Haines State Forest Resource Management Area.

21 Sec. 41.15.520. MULTIPLE-USE MANAGEMENT. (a) The Haines State
22 Forest Resource Management Area shall be managed under the principles of
23 multiple use and sustained yield as defined in AS 38.04.910, under
24 AS 41.17, and under a management plan prepared by the Department of
25 Natural Resources. The plan may not be adopted or revised without prior
26 review by the Board of Forestry or without a public hearing held in
27 Haines and Klukwan.

28 (b) The Department of Natural Resources shall periodically review
29 and revise the management plan adopted for the Haines State Forest

1 Resource Management Area under (a) of this section.

2 (c) A copy of a management plan and any revision to it prepared by
3 the Department of Natural Resources, reviewed by the Board of Forestry
4 and adopted by the department after public hearings required under (a)
5 of this section shall be provided to the legislature within 30 days of
6 its adoption or revision or within the first 10 days of the first session
7 of the legislature to convene after its adoption or revision.

8 (d) The Department of Fish and Game is responsible for the manage-
9 ment of fish and game resources in the Haines State Forest Resource
10 Management Area under applicable law and in a manner consistent with
11 AS 41.15.500 - 41.15.520.

12 (e) The control of highway access and roadside structures within
13 the Haines State Forest Resource Management Area is the responsibility
14 of the Department of Natural Resources except that the Department of
15 Transportation and Public Facilities is responsible for the repair and
16 maintenance of public roads in the Haines State Forest Resource Manage-
17 ment Area.

18 (f) The state land and water described in AS 41.15.510(a) are
19 closed to sale under state land disposal laws and to municipal selections
20 made after the effective date of this Act. The commissioner of natural
21 resources may lease the land described in AS 41.15.510(a) under AS 38.-
22 05.070 - 38.05.105 for a purpose consistent with AS 41.15.500(a).

23 (g) The Department of Natural Resources shall consult with the
24 Department of Fish and Game during preparation of a management plan
25 under (a) and (b) of this section and during formulation of regulations
26 governing the use of the Haines State Forest Resource Management Area.
27 The Department of Fish and Game shall consult with the Department of
28 Natural Resources before adopting ~~of~~ regulations governing fish and
29 wildlife management in the Haines State Forest Resource Management Area.

1 Regulations may not be adopted by either department without prior review
2 at a public hearing.

3 (h) The Department of Natural Resources may enter into cooperative
4 management agreements with a person who holds title to or has a valid
5 entry on land within or adjoining the boundaries of the Haines State
6 Forest Resource Management Area.

7 * Sec. 3. The management plan for the Alaska Chilkat Bald Eagle Preserve
8 prepared by the Department of Natural Resources under AS 41.20.507(i) as
9 enacted in sec. 1 of this Act shall be ^{adopted (legal)} ~~developed~~ and implemented within two
10 years after the effective date of this Act.

11 * Sec. 4. The management plan for the Haines State Forest Resource Manage-
12 ment Area prepared by the Department of Natural Resources under AS 41.15.520
13 ~~shall~~ enacted in sec. 2 of this Act shall be adopted and implemented within two
14 years after ^{(its effective date) ?} ~~enactment~~ of this Act. The management plan shall be based on a NEW
15 EXISTING ~~current~~ operational level inventory ~~completed within the last 10 years and~~
16 updated as future inventory information becomes available. The Haines-Skagway
17 Area Land Use Plan adopted by the Department of Natural Resources in 1979
18 shall be used as the basis for preparation of the initial management plan for
19 the Haines State Forest Resource Management Area. Before approval of the
20 management plan prepared under AS 41.15.520, management of the Haines State
21 Forest Resource Management Area shall be conducted under the land use alloca-
22 tions and the appropriate management provisions of the Haines-Skagway Area
23 Land Use Plan.

24 * Sec. 5. AS 16.20.230(8) is repealed.

25 * SEC. 6 THIS ACT TAKES EFFECT JULY 1, 1982

Alaska State Legislature

SENATOR
BRAD BRADLEY
P.O. DRAWER 8-Q
ANCHORAGE, ALASKA 99508
(PERMANENT ADDRESS)
PHONE: (907) 337-1060

POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811
(LEGISLATURE ADDRESS)
(JANUARY - JUNE)
PHONE: (907) 465-3791



Senate

ASSISTANT FLOOR LEADER
REPUBLICAN CAUCUS LEADER

COMMITTEES

CHAIRMAN

VETERAN'S AFFAIRS

MEMBER

STATE AFFAIRS

RESOURCES

LEGISLATIVE COUNCIL

April 14, 1982

TO SENATOR FAHRENKAMP

Due to scheduling problems I cannot attend this afternoon's resource meeting. In my absence, I would like to express my support for SB 796.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Brad Bradley".

Brad Bradley
State Senator

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSSSB 796
Title Act providing for management of state-owned land in Haines Area
Requested by Farenkamp Date 4-14-82

II. FISCAL DETAIL

Agency Affected Department of Natural Resources
Program Category Affected NRMEC
BRU, Program, Or Subprogram(s) Affected Parks & Rec & Land Mgmt.
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		0				
200 TRAVEL		0				
300 CONTRACTUAL		0				
400 COMMODITIES		0				
500 EQUIPMENT		0				
600 LAND & STRUCTURES		0				
700 GRANTS, CLAIMS, ETC.		0				
TOTAL		0				

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		0				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE April 14, 1982 PREPARED BY Jeff Haynes
AGENCY Natural Resources
PHONE 465-2400

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

Received
4/13/82
From: Joe Hatch

We therefore petition the Legislature to consider the following:

1. Native allotments: We request the State to remove all protests & contests filed against native allotment applications, subject to valid existing rights, made pursuant to the Act of May 17, 1906 (34 Stat. 197 as amended) which were pending before the Department of the Interior on or before December 18, 1971 and which qualify for approval under Section 905 of the Alaska National Interest Lands Conservation Act. Public Law 96-487. Dec. 2, 1980.
2. That all historical and burial sites selected through the ANSCA be protected from further vandalism and destruction by the Department of Transportation, city governments and others.
3. That all State entities be instructed that disputes over the Roads and Rights of Way that exist without approval over Native lands be resolved.
4. That the proposed Fish & Wildlife Advisory Council for the Klukwan area be recognized as the Advisory Board for Preserve Management in addition to its normal functions, rather than create a new board.
5. That our traditional and subsistence use of the entire area not be infringed upon nor neglected to a point where our lands would become inaccessible and
6. That maintenance, snow removal, construction of improvements, drainage ditches, culverts, etc.) be on a regular year-round basis as State law specifies for the public roadways in the Klukwan area.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

4/13
JAY S. HAMMOND, GOVERNOR

1:00 PM

POUCH M
JUNEAU, ALASKA 99811
PHONE:

April 13, 1982

Mr. Craig Tillery
Alaska Legal Services
615 "H" Street
Anchorage, Alaska 99501

Dear Craig:

I want to clarify one point in my letter of April 8, 1982. It is the Department's intent to pursue the allotment question whether or not the Haines State Forest and Chilkat Eagle Preserve legislation is passed.

I do believe that this issue has focused attention on the Haines Klukwan area and this provides a good opportunity to galvanize all the appropriate agencies and people into action and use the Haines area as a test case to see if we can work out a better, quicker way of addressing the allotment question.

I look forward to working with you on this matter.

Sincerely,

Reed Stoops - R.S.

Reed Stoops, Director
Division of Research & Development



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SA 796

March 19, 1982

The Honorable R. E. Henderson
Mayor
Haines Borough
Box H
Haines, AK 99827

Dear Mayor Henderson:

Your letter of February 26 represents an agreement which is extremely gratifying to me. It is a pleasure to see the polarization and litigation in past years replaced by a cooperative, well researched solution. I commend you and your community for your role in this effort.

By copy of this letter, I, too, will inform the Legislature of my support for "an act providing for the management of State-owned land in the Haines area, establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area." I am aware of the careful drafting of the language of the bill, and agree that it should be passed without amendment, unless such amendment is agreed to by all parties.

Should the bill pass in the present form, I will assure Senator Hart that the bill provides strong State statutory safeguards for this important fisheries and bald eagle habitat, and that my "moratorium" on development dated July 21, 1980 will be lifted.

The interdisciplinary resource studies in the Haines area will continue for another year, provided the Legislature approves funds for this purpose currently contained in my budget request. I will also discuss the need for timber re-inventory of the proposed Haines State Forest with Commissioner Katz and urge that he use resource inventory funds to complete this work.

The Honorable
R. E. Henderson

-2-

March 19, 1982

The work in the Chilkat Valley has already influenced our attempts to resolve similar conflicts in the rest of the State. The Bristol Bay Cooperative Management Plan, for example, will use the same techniques to attempt to reach reasonable compromises.

Thank you again for your efforts.

Sincerely,

Jay S. Hammond
Governor



Alaska State Legislature

SENATE Resources Committee

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
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POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

TO: Senator Fahrenkamp
Chairman

DATE: 4/13/82

FROM: Resa King
Staff

RE: SSSSB 796 - Haines
Eagle/Forest Bill

I met again today with representatives from the various interested groups on the Haines Eagle/Forest bill.

The main purpose of today's meeting was to address Klukwan's specific amendments and check the Work Draft Committee Substitute for SSSB 796.

Klukwan came forward with six suggestions (which are attached). The following is a brief description of the recommendations of the working group:

1. NATIVE ALLOTMENTS: There is a section in the bill that provides for the lands to be considered as private land. The Department of Natural Resources outlined, in their April 8th letter to Craig Tillery, the steps they are taking in this regard .

2. HISTORICAL AND BURIAL SITES. Language was added to cover future protection of these sites.

3. RIGHTS OF WAY. Language was added.

4. PROPOSED FISH & WILDLIFE ADVISORY COUNCIL MANAGE THE PRESERVE. Since the Council does not exist it was thought inappropriate to consider their managing the Preserve. DNR also noted that they can not turn over management of public lands to a group. Language was added to have the division of parks and the Alaska Chilkat Bald Eagle Advisory Council consult with the Chilkat Indian Village and the Chilkoot Indian Association in developing the management plan, management and administration. The Chilkoot Indian Association was also added to the Preserve Advisory Council.

5. TRADITIONAL AND SUBSISTENCE USE. Page 4, lines 1-15 contains language on traditional uses. The bill also has a provision that prior to restricting a traditional use the director of the division of parks shall hold a public hearing in Haines and Klukwan.

6. YEAR-ROUND MAINTENANCE, SNOW REMOVAL, CONSTRUCTION IMPROVEMENTS FOR PUBLIC ROADWAYS IN KLUKWAN AREA. It was

thought by the group that this was outside the jurisdiction of the bill. The Department of Natural Resources, the City of Haines, and the Borough of Haines committed to writing a letter to the Department of Transportation and the Tlingit-Haida Central Council outlining the problems outlined by Mr. Hotch.

Attached is the working groups product for the Committee's review. These are identified by being typed IN CAPS most of the handwritten language is from the Legal Division. The following is the line by line changes:

Page 1, line 9: Add "and providing for an effective date."

Page 1, line 14: Should read "AS 41.20.506 - 4120.525"

Page 1, line 15: After ".507" insert "(k)"

Page 2, line 8: Delete "waters" and insert "water"

Page 2, line 8: After "and" insert "state public domain land

Page 2 " *II*
and water"

Page 2, line 10: After "that" insert "there is no"

Page 2, line 11: After "future" insert a (.) and delete
"is unnecessary."

Page 2, line 12: after ".507" insert "(k)"

Page 2, line 15: after "the" insert "state"

Page 2, line 22: after "land," insert "pending and approved"

Page 3, line 4: after "preserve" insert "shall be treated
as"

Page 3, line 5: after ".525" insert "including but not
limited to rights of way acquisition."

Page 3, line 21: After "administration of" insert "federal"

Page 4, line 21: After "occupancy" insert "on land"

Page 4, line 24: Delete "(a)" and insert "(k)"

Page 4, line 25: After "claim," insert "holder of"

Page 4, line 26: Before "subsurface" insert "holder of"

Page 4, line 26: After the first "rights" insert "other
valid occupancy,"

Page 5, line 2: After "Council" insert "in the furtherance of the purposes and"

Page 5, line 10: After "sources," insert "including but not limited to the Chilkat Indian Village and Chilkoot Indian Association"

Page 5, line 16: After "natural" insert "and cultural"

Page 6, line 21: Delete "and"

Page 6, line 21: Delete "chairman" and insert "chairmen"

Page 6, line 22: after "Village" insert "and Chilkoot Indian Association or their designee"

Page 6, line 24: After "governor" insert "for appointment to the advisory council"

Page 6, line 29: Delete the first "as"

Page 7, line 1: Before the "Advisory" insert "Preserve"

Page 7, After line 6: a new subsection to read: "(f) All historical, cultural and burial sites identified in the Chilkat Bald Eagle Preserve management plan shall be protected by the Department of Natural Resources from vandalism, desecration and destruction."

Page 7, line 12: Delete "of" insert "adjacent to"

Page 7, line 14: Delete "on private land"

Page 9, line 6: Delete "are" insert "shall be treated as"

Page 9, line 11: Before "Area" insert "ment"

Page 9, line 17 and 22: typo corrections.

Page 10, line 28: Delete "of"

Page 11, line 15: Delete "current" insert "existing"

Page 11, line 15: Delete "completed within the last 10 years"

Page 11, line 25: Add a new section 6 "this Act takes

effect July 1, 1982.

PETITION IN SUPPORT OF SSSB 796

We the undersigned citizens of the Haines Borough area having read and reviewed sponsor substitute for Senate Bill 796 do hereby support this bill and ask for immediate passage of this bill.

CHECK ONE OR MORE

SIGNATURE	ADDRESS	ALLOTMENT APPLICANT OR HOLDER	MEMBER OF IRA	MEMBER OF AIB ANS	NATIVE	CONCERNED ALASKAN
<i>Devin Y. Paddock</i>	<i>Box 134 Haines</i>				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Gale (Tagg) Thompson</i>			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Neil Thompson</i>	<i>Haines</i>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Catherine E. Thompson</i>			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Kathy Thompson</i>	<i>Haines</i>				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Betha Finnie</i>	<i>P.O. Box 370 Haines</i>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	<i>UL2-7976 (BY PHONE CENSUS)</i>					
<i>Earl E. Tagg</i>	<i>Naval Lake Tawana, Wn</i>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	<i>UL27990 (BY PHONE CENSUS)</i>					
<i>Jenny (Tagg) Hughes</i>	<i>Kent Wash</i>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	<i>TRI-1483 (BY PHONE CENSUS)</i>					
<i>Louise (Tagg) Kawekobe</i>	<i>Port Orchard, Wn</i>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	<i>1463 2061 (BY PHONE CENSUS)</i>					
<i>Deanna (Tagg) Bacon</i>	<i>Vashon Wash</i>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>John W. Thompson Jr</i>	<i>Haines</i>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Thompson</i>	<i>Haines</i>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>John W. Thompson Jr</i>						<input checked="" type="checkbox"/>

PETITION IN SUPPORT OF SSSB 796

We the undersigned citizens of the Haines Borough area having read and reviewed sponsor substitute for Senate Bill 796 do hereby support this bill and ask for immediate passage of this bill.

CHECK ONE OR MORE

SIGNATURE	ADDRESS	ALLIANCE APPLICANT OR HOLDER	MEMBER OF IRA	MEMBER OF AUB	NATIVE	CONCERNED ALASKAN
Elsie Mellott	Haines		yes	yes	yes	yes
Margaret Thomas	Box 131 Haines	None	yes	yes	yes	yes
Frank's Thomas	Haines Box 98					
Walt S. Chytrick	Haines Box 366	NO	yes	yes	yes	yes
Leo A. Land	Box 122 Haines	no	no	yes	no	yes
Charles R. Adair	Box 139 Haines		X	X	X	

PETITION IN

We the undersigned citizens of
 reviewed sponsor substitute f
 bill and ask for immediate pa

CHECK ONE

SIGNATURE	ADDRESS	ALLOTMENT APPLICANT OR HOLDER
<i>[Signature]</i>	Box 542 Haines	
<i>[Signature]</i>	Box 542 HAINES	
<i>[Signature]</i>	Box 178 Haines	
<i>[Signature]</i>	Box 294 HAINES	
<i>[Signature]</i>		
<i>[Signature]</i>	Box 577	X
<i>[Signature]</i>	Box 294	

SUPPORT OF SSSB 796

the Haines Borough area having read and
 Senate Bill 796 do hereby support this
 age of this bill.

OR MORE

11

MEMBER OF IRA	MEMBER OF ANB	NATIVE	CONCERNED ALASKAN
			L
			A
			✓
			✓
			✓
	X	X	
			✓

PETITION IN SUPPORT OF SSSB 796

We the undersigned citizens of the Haines Borough area having read and reviewed sponsor substitute for Senate Bill 796 do hereby support this bill and ask for immediate passage of this bill.

CHECK ONE OR MORE

SIGNATURE	ADDRESS	ALLOTMENT APPLICABLE OR HOLDER	MEMBER OF IRA	MEMBER OF ANB	NATIVE	CONCERNED ALASKAN
<i>[Signature]</i>	<i>[Address]</i>	NO	NO	NO	NO	
<i>[Signature]</i>	<i>[Address]</i>	NO	YES	NO	YES	
Harmon D. Parice	Bx 201	NO	NO	NO	YES	YES
Mary Ann Parice	Box 201	NO	NO	NO	NO	Yes
Charles Clayton	" 116	"	no	no	yes	yes
Lionel Brown	Box 1125	NO	NO	NO	YES	YES
Bob A. [Signature]	373	NO	YES	YES	YES	YES
Mik Lind	Box 1	NO	NO	NO	NO	YES
Michael [Signature]	Box 36	NO	NO	NO	NO	"
R Boyl [Signature]	Box 94	NO	NO	NO	NO	YES

PETITION IN SUPPORT OF SSSB 796

We the undersigned citizens of the Haines Borough area having read and reviewed sponsor substitute for Senate Bill 796 do hereby support this bill and ask for immediate passage of this bill.

CHECK ONE OR MORE

SIGNATURE	ADDRESS	ALLOTMENT APPLICANT OR HOLDER	MEMBER OF IRA	MEMBER OF ANB	NATIVE	CONCERNED ALASKAN
Wesley Paddock	P.O. Box 134 Haines, Alaska 99822		X	Y	Y	X
John Clayton	Box 116 HAINES AK 99827					
Paul Douglas Pette	P.O. Box 487 Haines Alaska 99827					X
Mary Paddock	P.O. Box 134 Haines, Alaska 99827	X		X	X	X
Craig S. Lomin	P.O. Box 332 Haines, Alaska 99827					X
Therese Clayton					X	
Bob Wood	Haines, Alaska					X
John Hill	Haines					X
Paul Martin	HAINES AK					X

PETITION IN SUPPORT OF SSB 796

We the undersigned citizens of the Haines Borough area having read and reviewed sponsor substitute for Senate Bill 796 do hereby support this bill and ask for immediate passage of this bill.

CHECK ONE OR MORE

SIGNATURE	ADDRESS	ALLOTMENT APPLICANT OR HOLDER	MEMBER OF IRA	MEMBER OF ANB	NATIVE	CONCERNED ALASKAN
<i>Ross F. Potter</i>	<i>Haines P.O. Box 86</i>					<input checked="" type="checkbox"/>
<i>George Pelt</i>	<i>P.O. Box 51 H.</i>					<input checked="" type="checkbox"/>
<i>Lenny Wells</i>	<i>P.O. Box 274 Haines</i>					
<i>Mark Williams</i>	<i>P.O. Box 463 Haines</i>					
<i>Colleen Williams</i>	<i>P.O. Box 463 Haines</i>					
<i>Nelle J. Reid</i>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Jack Winters</i>	<i>Box R Haines</i>					<input checked="" type="checkbox"/>
<i>Ron Hill</i>	<i>Box 178 Haines</i>					<input checked="" type="checkbox"/>
<i>Neil Jensen</i>	<i>Box 542 Haines</i>					<input checked="" type="checkbox"/>
<i>Doug Cameron</i>	<i>Box 477 Haines</i>				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Bill Hill</i>	<i>Box 100 H.</i>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

4/13/82
1:00
JAY S. HAMMOND, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE:

April 8, 1982

Mr. Craig Tillery
Alaska Legal Services
615 "H" Street
Anchorage, Alaska 99501

Dear Craig:

The Department of Natural Resources has reviewed the location of all known native allotment applications currently on file for lands in the Haines area. Attached is a listing of all allotment applications which were reviewed.

Most of the allotments are located on State patented and tentatively approved lands, and subject to the Aguilar decision (August 8, 1979). In that decision, the court found that allotment applications should not be rejected solely because they were not filed prior to the State receipt of patent or tentative approval. If the applicant can show that use and occupancy commenced prior to the State receipt of patent or tentative approval and continued for sufficient duration to qualify under the Native Allotment Act, the application will be approved and court action initiated by the Federal government to rescind its conveyance to the State of Alaska.

Unfortunately, the Bureau of Land Management is not funded to perform its adjudication responsibilities for Native Allotments to the detriment of both the State and the allotment applicants. Further, should adjudication show the application is valid, a protracted court proceeding may be necessary to rescind the federal conveyance to the State.

As we discussed it would be mutually advantageous to the State and allotment applicants, if the State had the option to quit claim its interest on patented or tentatively approved land subject to valid allotment applications and BLM was required to convey such interest to the allotment applicant. While this option would only be used at the State's discretion, it would save considerable time and expense to all parties where it was exercised. Further, I would be generally consistent with the rationale used by

Mr. Craig Tillery
April 8, 1982
Page 2

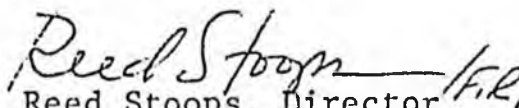
Congress in Section 905 of ANILCA, where legislative approval was used to by pass the adjudication process in certain cases.

In addition, we have reviewed the proposed two stage adjudication process suggested by Regional Solicitor Jack Allen, and find it reasonable. The State will join with you in urging Congress that sufficient funds be made available to BLM to expedite adjudication on this or a similar process.

Finally, with regard to specific allotment applications in the Haines/Skagway area, we divided them into three categories: (1) those which the State would be willing to quit claim its interest if a mechanism is made available for this purpose by Congress or by administrative action of BLM), (2) those which the State would quit claim its interest provided that rights-of-ways were granted the State by allotment recipients, and (3) those that the State would insist on a full BLM adjudication process.

Provided that State legislation is adopted this year establishing the Haines State Forest and the Chilkat Bald Eagle Preserve, the State is willing to place allotment applications in categories (1) through (3) for the purpose of resolving land status and reducing expensive and time consuming court actions. The attached list represents the Department's tentative position on each allotment. The Department will take a final position on each allotment in a week or two after final review by all interested parties.

Sincerely,


Reed Stoops, Director
Division of Research & Development

Attachment

Haines-Skagway Native Allotments

- 1) No State Interest
- 2) Access Easement Needed
- 3) Adjudication Required

1)	AA 6542 TA to State	Eva L. Pardee	3
2)	AA 7929 Patent to State	Esther Hotch	1
3)	AA 7610	Mildred Sparks	Approved
4)	AA 7944 Patent to State	Donald Hotch	3
5)	AA 7927 Patent to State	Ethel Aguilar	3
6)	AA 7928 Patent to State	Elmer Hotch	3
7)	AA 7946 Patent to State	Smith Katzeek, Sr.	3
8)	A 04612 Patent to State	Jim King	2
9)	AA 1474	Peter Duncan	Cert. Issued
10)			
11)	AA 6618 Patent to State	Fred Donnely	2
12)	AA 8036 Patent to State	Henry Jacquot	2
13)	AA 8035 Patent to State	Larry Jacquot	2
14)	AA 7884 Patent to State	John Barry	3
15)	AA 8022 Patent to State	Fred Chambers	3
16)	AA 0065	Archie Chancy	Cert. Issued
17)	A 003821 Patent to State	Archie Abbott	2
18)	A 004181	William S. Johnson	Cert. Issued

19)	A 060279 No State Land	James M. Ward	Legislative Approved
20)	A 061041	Johnny Willard	Cert. Issued
21)			Cert. Issued
22)	A 010296	Mary Whitaker	Cert. Issued
23)	A 034749	Edward Kasko	Cert. Issued
24)	A 034721	Tom Katzeek	Cert. Issued
25)	J 011180 A 060915	George Stevens	Cert. Issued
26)	AA 6306	Joseph King	2
27)	A 010350	Willie Lee	Cert. Issued
28)			
29)			Cert. Issued
30)	A 003745 Patented Homestead	Billie Johnson	2
31)	AA 6135 Patent to State	Annie Hotch	1
32)	A 060922 State Selection	Clarence Hotch	Closed Stat. Life
33)	A 060904	David Hotch	Cert. Issued
34)	A 050258 Partial Patent to State	Harold Hotch	2
35)	A 062053 Patent to State	Helen Hotch	2
36)	AA 7020 Patent to State	William Hotch	3
37)	AA 6602 Patent to State	John Katzeek	3
38)	AA 3141 State Selection	Charlotte Davis	2
39)			2
→ End Eagle Bill Allotments			
40)	AA 45063	Katherine Ingstern	3
41)	AA 45064	Mary Paddock	3

42)	AA 45065	Mary Philpot	2*
43)	AA 6578	Mary Aspenwall	3*(overlap)
44)	AA 45060	Murry Claton	3*(overlap)
45)	AA 45064	Pat Philpot	3*
46)	AA 45066	Nellie Petti	3*
47)	AA 7033	Thomas Abbot	3*(overlap)
48)	AA 45069	Dorthy Meyers	3*
49)	AA 7607	Dolly Phillips	3*
50)	AA 7609	Milton Phillips	3
51)	AA 7608	Fred Phillips	3
52)	AA 6601	Paul Phillips	2
53)	J 01110A	Alice L. Tagg	2
54)			
55)	AA 7605	Paul Phillips	3
56)	A 061299	George Williams	3
57)	AA 6600	Dave Berry	2
58)	AA 6589	Frank Berry	2
	AA 7611	Helen Louise Smith	3*(overlap)

*George Katzeck
(next to J Sun Katzeck)*

*on University Land

CHILKAT INDIAN VILLAGE

AN INDIAN REORGANIZATION ACT VILLAGE
UNDER ACT OF CONGRESS JUNE 18, 1935

BOX 220
HAINES, ALASKA 99827
766-2805

Mr. Chairman, Members of this Committee, Ladies and Gentlemen, my name is Joe Hotch, Vice President of Chilkat Indian Village. The Chilkat Indian Village is a duly constituted Indian Tribe organized pursuant to the authority of the Acts of Congress of June 18, 1934 (48 Stat 984) and May 1, 1936 (49 Stat. 1250) within it's constitution and by-laws ratified March 27, 1941.

We have a seven member Council and the Chilkat Indian Village, as a Council and as a whole, has been active since being organized. The Council has never been de-activated for any reason and is the present governing body, including 205 registered voters, of the village of Klukwan. Under Article (4) Powers of the village, section 1 (k) We are empowered to negotiate with the Federal and Territorial governments on behalf of the village and to advise and consult with representatives of the interior Department on activities of the Department that may affect the village.

We have several points of high concern which we wish to point out to you. The Natives of the Chilkat Valley are concerned over the loss of their lands and aboriginal claims for the past one hundred years.

A Short History

In 1884, Congress provided that "The Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupied or now claimed by them. The terms under which such persons may acquire title to such lands is reserved for future legislation by Congress

In 1891, Congress provided that no patents should be issued for any

trade or manufacturing site at which the Natives of Alaska have prior rights by virtue of actual occupation.

On May 17, 1906, (34 Stat. 197 U.S.C. 357 as amended) - The Alaska Native Allotment Act allowing for a trust patent up to 160 acres of land use and occupied by Natives was signed into law. Under this Act some 50 allotments were subsequently filed in the area. and are still not patented.

In November 1943 - some members of the Tribe petitioned the Secretary of the Interior for some 12,800 acres as a reservation.

In October 1946 - The Bureau of Indian Affairs hearing officer told the people of Klukwan in a hearing on the request for a reservation that they would not own the land and that any revenues derived from the land, would go to the government in Juneau not to the Tribe. The people were quite distressed at this information and in addition claimed the entire 2.6 million acres which they used and occupied. (This by the way was attested to by numerous historical documents and is factually undisputed). Under this cloud of misinformation the people withdrew their request for a reservation thinking that the Bureau of Indian Affairs would present a request for a 2.6 million acre land claims (minus land taken by the Army for their purposes) and that they at least controlled the 12,800 acres. This of course never happened.

By the way, we have found that the 12,800 acres related to the Canadian border that was at Wells Bridge. It was moved to it's present location through the powers and efforts of a Klukwan Chief, Yelt-Kagh. A Canadian Army was posted at Wells and our people were checked even to go a little ways past the border. Our Chief took his warriors and told the superior officer through Tlingit Indian soldiers in the Canadian Army, Paddy Duncan and one by the last name of Kodawat, that if they

did not move from Wells, we would declare war upon them. The commanding Canadian officer asked where our boundaries were. Our Chief said "Within the mountain tops". The Canadians have honored this claim and the present border reflects the change made.

Additionally, that 1946 hearing was transcribed (a copy is attached) and it should be noted that 42 people petitioned (15 by an X mark) 22 testified (13 through an interpreter) and 4 were not permanent

In 1967 - The Tlingit and Haida Court of Claims decision found that the Tlingit and Haida Indians had valid claims of aboriginal title to lands in Southeast Alaska and that the Chilkat Indians had valid claims to 2.6 million acres of land since no further proof work was done, this claim was cancelled by the Alaska Native Claims Settlement Act. In 1971 ANCSA passed without including Klukwan.

In 1976, the Act was amended to allow Klukwan to form a village corporation. Klukwan Incorporated, has selected lands on Long Island. Near Prince of Wales Island.

In SUMMARY, during the 50's, 60's, 70's and it appears the 80's the various governments have taken right of ways without regard to ownership or historical and cultural importance, have refused to recognize our form of government, have delayed approval of our pending land claims, have refused to provide common maintenance service for our people on roads within the community and have excluded in fact, if not in intent, the people of Klukwan from decisions affecting land and its creatures including Eagles, with which the people have lived, long before the Audubon Society and Department of Natural Resources discovered Alaska.

We feel this whole matter has been rushed to accommodate others and forces us to make hasty decisions on matters of more importance to us as a people, whose very clan is related as a family to the Eagle, than virtually any other party at interest.

We do not wish to stand in the way of the Economic development of the area. We also use cold hard cash these days and point out that we did not impose or request the development moratorium, it was the Governor. Now the economics of the area and the people are being held hostage by their own Governor and Department of Natural Resource's avid interpretation of the freeze. Neither are we anti-Eagle, it is our clan! However, no bulldozers are posed to knock down Eagle nests (unless Department of Transportation has some already), so the hasty nature of this legislative procedure must be an attempt to have the State march to the beat of outside drummers without regard to both fact or the feelings of all concerned.

We are here with expectation that the State will give us a better and more understanding way of resolving our concerns - starting with postponement of passage of this legislation.

On behalf of the Chilkat Indian Village and it's membership, I wish to Thank all of you for this opportunity to express our deep concerns that have surfaced over this proposed legislation.

I will answer any questions that are relative to our concerns.



CENTRAL COUNCIL

Tlingit and Haida Indian Tribes of Alaska
One Sealaska Plaza - Suite 200
Juneau, Alaska 99801

April 7, 1982

The Honorable Bettye Fahrenkamp
Chairwoman, Senate Resources Committee
Alaska State Senate
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

We are writing to express our opposition to the passage this year of Senate Bill 796, An Act providing for the management of State-owned land in the Haines area. . . .

The Central Council, which represents some 16,000 Tlingit and Haida Indians in Alaska, is concerned about the manner in which this legislation was formulated, without attention to problems of the people of Klukwan. The lands under their stewardship during the rise and fall of many governments have not suffered as a result of their management, and are not in danger now except from nonresident forces.

It is disheartening to see the paperwork which trails the taking of these peoples' lands by others. No matter what the seal, signature or title, it has only resulted in losses to these people. There has been no consideration given to assisting in solving these peoples' problems.

We are also concerned about the economic future of the area. It is clear that the Governor's imposed freeze can be removed in whole or in part by him, and we urge such action so that the people represented by the Governor are not intentionally or inadvertently made pawns in a national image game.

Your kind attention to this matter is appreciated.

Sincerely,

John Rope
President

BEFORE THE GOVERNOR OF ALASKA, THE STATE AND HOUSE RESOURCE COMMITTEES, THE LEGISLATIVE BODY, SENATOR BILL RAY, REPRESENTATIVE JIM DUNCAN AND TO WHOM IT MAY CONCERN.....

In the Matter of Opposition to State Land Selections in the Haines Borough for the Purpose of Creating a Bald Eagle Preserve and a Forestry Resource Management Area under SB 796 and House Bill 881 or any other State Land Selection Legislation at this time.

A PETITION

Whereas: the Klukwan IRA Chilkat Indian Village Council and/or members oppose any State of Alaska selection or designation of lands within the Haines Borough until letter, dated April 26, 1977, to Mr. John Kelly, Field Solicitor, United States Department of Interior, relating to Trespass on 2.6 million acres of traditional lands is resolved, and

Whereas: the Klukwan IRA Chilkat Indian Village Council has gone on record as in opposition, and

Whereas: the IRA of the Chilkat Indian Village would like to establish that they are a separate entity from Klukwan, Inc., that Klukwan Inc. does not represent IRA, and that IRA may make decisions separate from Klukwan Inc. and that IRA decisions involve the Chilkat Indian Village located at Klukwan and should be respected as such, NOW

We, the undersigned, being all of clear mind and residents of the Village of Klukwan, DO HEREBY PETITION the Governor of the State of Alaska, the State and House Resource Committees of the State of Alaska's Legislative Body, the entire Legislative Body of the State of Alaska, Senator Bill Ray, Sponsor of SB796, Representative Jim Duncan, Sponsor of HB 881 and to whom it may concern to stop all action on SB796, HB881 and any other legislative vehicles that involve State land selection in the Haines Borough until all native lands to include pending native allotments are resolved.

NAME Jerry D. Baker ADDRESS Klukwan AK
Chilkat Indian Village
Clarence M. Hatcher KLUKWAN, ALASKA

KLUKWAN IRA CHILKAT INDIAN VILLAGE COUNCIL
Klukwan, Alaska
3/8/82

Attached is a petition addressed to:

THE GOVERNOR OF ALASKA, THE STATE AND HOUSE RESOURCE COMMITTEES, THE LEGISLATIVE BODY, SENATOR BILL RAY, REPRESENTATIVE JIM DUNCAN AND TO WHOM IT MAY CONCERN

All correspondence and/or telephone communications, from addressees regarding this petition, should be directed to:

Mr. James Stevens, President
IRA Council
Box 220
Haines, Alaska 99827
Phones: Home 7662404 Business 766 2805

AND ALSO

Mr. Joe Hotch, Vice President
IRA Council
Box 525
Haines, Alaska 99827
Phone: 766 2556

The Community of Klukwan was not considered as part of the Consensus sign-off, in a letter dated February 26, 1982 to Governor Jay Hammond from the Mayors of the City and Borough of Haines. Therefore; the residents of Klukwan are taking this opportunity to express their overwhelming opposition to any legislative vehicles or legislation that involves land selection or land designation in this area.

NAME

ADDRESS

Stuart Joyce Jacobs

Klukwan Alaska

Eugene King

Klukwan

Smith Kayalo sr.

Klukwan

Charles E. King, Jr.

Klukwan, AK.

Mattie G. Wood

Klukwan

Jessie Wood

Klukwan

Esther Hatch

Klukwan AK.

Helen King - Klukwan

Charles E. King Jr. Klukwan

Charlene Katyeek

Klukwan, AK.

Evelyn Hatch

Klukwan

Martine Sweet

Klukwan

Beverly Hatch

Klukwan

Helen Rose

Klukwan

Ruth Kaska

Klukwan

Jill King

Klukwan

Jill Hatch

Klukwan

Eileen Kaska

Klukwan

Jerry Sweet

Klukwan

Lillian Rose Hatch

Klukwan

NAME

ADDRESS

Joe Hatch

Box 525

Amin Hatch J.D.

Box 525

Katherine Hatch

Box 525

Laura Hatch

K. ...

(Margaret Stevens

(Mark Stevens

See Original

(George P. Stevens Sr

Joseph E Amus

" "

Bill Hatch

Franky Hamer

446

Gene Miller

" "

Richard King

Richard King 367

Mary E King

King, Box 367

Jay & Dawn Palmer

Box 300 Aniak Klukwan

Deborah L Hatch

Box 377 Hamnaak

Jan Kajeck

Box 104 Klukwan

Janice Kajeck

Box 101 Klukwan, AK

Debbie Kajeck

Box 534 Klukwan, AK

Richard King

Joe Hatch

K. ...

Clarence Hatten
 Elmer Hatch
 Archie Stanley
 Cato Kleney
 Lorena Willard
 Jerry Strong
 Agnes Strong
 Henry Strong
 Lynn Strong
 Theresa Ward
 Roberta Dennelly
 Toni Willard

(ALL KLUKWAN)

Silkpevan	11-11-11
Box 377	Haines Alaska
Box 356	Haines AK.
Box 356	Haines AK
Box 657	Haines, Alaska
Box 435	Haines AK
Box 435	Haines, Alaska
Box 435	
Box 435	Haines, AK
Box 368	Klukwan, AK
Box 338	Klukwan AK
Box 194	Klukwan



Klukwan, Inc.

P.O. Box 594
Haines, Alaska 99827



March 30, 1982

Jon D. Halliwill, Mayor
City of Haines
Haines, AK 99827

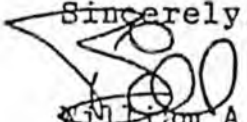
Dear ~~Mayor~~ ^{JOH} Halliwill:

In reference to Senate Bill No. 796, Section 1, Subsection C, pertaining to approved and pending Native Allotments, this language follows my proposed guidelines established during the early development of the Bill, helping to protect Native Allotment owners and pending Allotment applicants.

I would like to thank you for your past support of this issue and request your continued support of this provision in the Bill. I request your support in the pending Native Allotment issue, whereas people are making an effort to resolve the problems that created the State protest. I feel your political support would be helpful in resolving the issues.

While I have no personal gain in the issue, I feel this would have only a positive impact on the community, helping to preserve the native traditional use of the land and the native culture.

Sincerely,



William A. Thomas, Jr.
Chief Executive Officer

cc: Robert Henderson, Borough Mayor
Mike Miller
Jim Duncan
✓ Bill Ray
Chilkat Indian Village
T&B Central Council - Realty Affairs
Reed Stoops, Department of Natural Resources
Native Allotment Owners & Pending



Alaska State Legislature

SENATE Resources Committee

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Official Business

BETTYE FAHRENFAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

TO: Bettye Fahrenkamp
Chairman

DATE: 4/2/82

FROM: Resa King *R.K.*
Staff

RE: Legal Sectional
Analysis SSSB 796

Attached is a copy of the sectional analysis of SSSB 796 which is the Eagle Preserve/Haines Forest bill and is scheduled for hearing Wednesday, April 7, 1982.

SUMMARY

It is suggested that the bill be replaced with a committee substitute due to problems with: technique, typos, Alaska and U. S. Constitution, michievous language, no land descriptions, clarity, etc. Also, the drafter of the analysis could not understand the intent of certain sections of the bill and therefore was unable to provide corrective language.

Due to time constraints I do not believe that it is possible to cure all of the drafting errors, obtain an explanation of intent, and renegotiate the consensus agreement prior to the hearing. I note the consensus agreement because it contains the following language:

"Since the consensus agreement involved very careful wording . . . to achieve a delicately structured compromise, . . . urge . . . be passed . . . without amendment. Should the bill be amended by the Legislature so as to change its nature, all parties to this agrcement reserve the right to pursue alternative courses of action, including but not limited to, opposing passage of the amended legislation. Should passage of unacceptable amended legislation occur, despite our best efforts, then we would request exercise of your veto authority."

I would suggest that after the hearing that you and/or I meet with the various interested parties in an attempt to solve the legal questions while maintaining the local delicate balance. I must note that April 7th will be the 87th day of the Legislature.

Attachments

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

4/2/82
4:00pm
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-455-3800

MEMORANDUM

April 2, 1982

SUBJECT: Eagle Preserve/Haines Forrest -- SSSB 796
(Work Order No. 12-2781)

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

FROM: Richard A. Bradley *RB*
Legislative Counsel

You have asked for a sectional analysis of SSSB 796.

Initially, I must note that the bill was not drafted or revised in this office. The bill was typed without change from a draft provided to us by Senator Ray at his specific request.

Some problems of a technical, typographical, and stylistic nature exist. I see no particular gain to an identification of them at this time beyond the suggestion that a committee substitute should be made to correct the errors.

Of a more substantive nature, note that the bill uses variations on the phrase "appropriate law" or sometimes "applicable law". The Legislative Drafting Manual discourages the use of this phrase; if the legislature has in mind specific law that is to apply, it should be specifically referenced by AS section. If, on the other hand, nothing more is meant than that the public officer is governed by law generally, then the phrase adds nothing substantive and confuses administrators of the law and members of the public who have to comply with the law. To that extent that specific law is apparently referenced, I would add the reference. Beyond that, I would propose to delete the phrases in any committee substitute.

I will identify more substantive improvements to the bill as the particular section is analyzed.

Sec. 41.20.550. The section contains a declaration of purpose; the purpose is to establish the Eagle Preserve as a unit of the state park system. Other purposes are stated.

The material at lines 26 - 29 on page 1 of the bill is not in the usual format for language establishing compliance with AS 38.05.300.

Sec.550(a) designates as the Eagle Preserve land described on a map in the office of the commissioner of natural resources. A line on a map is not as precise a description as that found in the usual legal description. Beyond that consideration, such a description is also not reasonably accessible to members of the public. I recommend that the legislature not describe a state park in that fashion and I understand that the Department of Law agrees with this recommendation.

In that same subsection, I would prefer not to use the term "acquired land" as it is used on page 2, line 1 (and elsewhere) in the bill. The term has a technical meaning under public land law that is inconsistent with its meaning here. Rather than confuse, I would use other language.

I believe the "and" on line 5 should read "are".

Sec. 550(b) provides that "Private land, existing selections of the Haines Borough under State law, and existing transportation and utility corridors lying within the parcels described in (a) of this section" are excluded from the Preserve. It also provides that the state may not acquire private land within the preserve by eminent domain.

The section has some problems. Initially I note that no parcels are "described" in (a) of the section. Also, the section is unnecessary to exclude private land from the Preserve; the language of the bill applies only to state land. If the intent of this language is to reassure members of the Haines community of the implications of the bill, then it would be more appropriate to put the logic of this section as a statement of legislative intent.

And finally, the language of the prohibition against acquisition of private land within the Preserve by eminent domain is broader than necessary and therefore mischievous.

Senator Bettye Fahrenkamp

Page 3

April 2, 1982

I assume, for example, that the Department of Transportation and Public Facilities may not acquire private land within the Preserve for the improvement of highways or for any other public purpose under the existing language.

Sec. 550(c) seeks to protect Native allotments; it is also ambiguous. It uses the phrase "Approved and pending Native allotment applications" in the first phrase of the section and "all approved applications" in the latter phrase. I assume that "pending applications" are also to be treated as private land (if the applications are valid, the land is private) notwithstanding the nonparallel usage.

This section may also be intended to reassure members of the Native community concerned but it adds nothing to the law. If the language has that intent, I suggest that this section also be moved to a section of legislative intent and deleted from codified law.

In sec. 550(d), the Department of Fish and Game is given responsibility for management of fish and game resources. The phrase "under applicable law" should be deleted.

Sec. 550(e) provides for much consultation between state and federal agencies in the management of the Preserve. The phrase "adoption of reasonable regulations" in the section is not consistent with legislative style, primarily because it is meaningless. To the extent that it may suggest that regulations viewed as "unreasonable" are not effective, it misleads the public. If it suggests that unreasonable regulations do not have the force of law, it is inaccurate. Finally, who determines what is a "reasonable regulation"?

The phrase "Bald Eagle Protection Act of 1940 and other appropriate law" needs clarification. A statutory reference to the federal act should be added and the ambiguous "other appropriate law" should be clarified or deleted.

Sec. 550(f) provides that the natural habitat of the Preserve [I believe it would be clearer to say "the Preserve"] shall be managed to sustain eagle and salmon populations and other wildlife and water quality. The phrase "in accordance with applicable law" is used twice and should be deleted.

Senator Bettye Fahrenkamp

Page 4

April 2, 1982

Sec. 550(g) provides that the land and water described in (a) of the section are closed to mineral entry and location, to commercial harvest of timber, conveyance of fee title (but not lease?) under state disposal laws, and to future municipal selections. Since I assume that disposal of lease interests in state land within the reserve is not intended to be permitted, the section should be clarified.

Sec. 550(h) provides for "traditional uses" to continue within the Preserve. Examples of the permitted uses are offered though the list is not complete. The uses are alternatively described as "historically compatible uses," apparently to mean the same thing. The phrase "reasonable regulation" appears again.

Sec. 550(i) provides for access from private land and from nonprivate land on which valid existing rights exist. The first sentence is too long and unclear. Several awkward phrases within the section could be improved on without loss. The concept of "timely . . . access" is unclear. The phrase "economically feasible access for economic and other purposes" could be improved on. The phrase "reasonable regulation" appears.

It seems difficult to see how utility rights of way can ever be "compatible with the primary purpose" of the Preserve; it may be that such necessary rights of way should be granted under conditions that are consistent with minimal environmental impacts whether or not they are consistent with the primary purposes of the Preserve.

Sec. 550(j) requires the director of parks and the Advisory Council established later in the bill to develop the management plan. Much nonpermanent law appears and should be moved to uncodified sections -- or perhaps recast as permanent law.

The last sentence of the section is ineffective but is nonetheless unconstitutional. It provides that neither the federal government nor the state government nor private individuals may even study the question of adding to or deleting land from the Preserve without 90 days notice to the advisory council or an emergency certification from the director of parks. There seems no particular reason why the federal government should study the question of an addition

to or deletion from a state preserve but I believe the Supremacy Clause of the U.S. Constitution gives it that authority without seeking permission from the state. I assume that the First Amendment grants any individual citizen or group the authority to study the question [that is, to think about it] without seeking permission from the state. And if other statutory authority exists for a state study, the provision is ineffective even as to the state.

On a more positive note, I suspect that what is sought here is a political statement that the enactment of this legislation should be considered a resolution of the questions addressed in the bill. As a political statement (usually found in a statement of legislative intent), the goals can be reasonably achieved.

Sec. 41.20.560 establishes an advisory council for the Preserve.

Sec. 560(a) provides that the council has 11 members, appointed by the governor. They are entitled to the usual per diem and travel expenses.

Sec. 560(b) requires the governor to appoint individuals representing identified "interests". The governor may believe that he has the unfettered constitutional discretion to make executive appointments; to that extent, an attempt to limit the discretion of the governor in (b)(2), (5), and (7) may tread on the governor's power; in these cases, the effective appointment is made by the local official named in the subparagraph. The provisions at (b)(3), (4), and (6) are simply awkward; the governor is instructed to appoint "individuals . . . representing the following interests:

- (3) the Mayor of the City of Haines;
- (4) the Mayor of the Borough of Haines;
- (6) the President of the IRA Council of the Chilkat Indian Village;"

I assume that the goal of the bill on this latter point may be achieved if these individuals are made members of the advisory council ex officio.

April 2, 1982

And it might be more effective to provide that the commissioner of fish and game, the director of the division of forestry, and the director of the division of parks, or their designees serve ex officio rather than to use the existing formulations of paragraphs (b)(8), (10), and (11).

No "public members" are appointed.

Sec. 560(c) provides that members of the commission have two year terms. This provision seems inconsistent with the suggestion that the officials identified in (b)(3), (4), and (6) serve ex officio.

Sec. 560(d) directs the council to assist DNR in the development and monitoring of the management plan.

Sec. 41.15.570 (sic) establishes "miscellaneous provisions". The section requires renumbering as part of AS 41.20 and the subsections might better be reallocated.

Sec. 570(a) provides that "Notwithstanding any other provision of this Act or law," the establishment of the Preserve shall not be "deemed to enlarge, diminish, add to, or waive any substantive or procedural requirements otherwise applicable to the management or use of the adjacent lands of the Haines State Forest Resource Management Area, or other State or private lands".

I do not know what is meant by "substantive or procedural requirements". It may mean "law".

I assume that the usage of the word "adjacent" is meant in context to suggest that the Haines State Forest Resource Management Area is proximately located to the Preserve; it may mean, however, that adjacent lands of the Area are to be dealt with differently than more remote land of the Area. The usage later in the same section seems to reinforce this suggestion that "adjacent lands" are dealt with differently from remote lands. That result seems awkward and the section needs clarification.

The phrase "applicable law" appears.

If the legislature wishes coordination between the divisions of parks and forestry, it should direct the coordination not "encourage" it.

Sec. 570(b) is a state variation of the Federal (d)(2) "no more" legislation; it is clearly a statement of intent but not a substantive provision of law.

Sec. 570(c) is a repealer and does not belong in permanent law. It repeals the Chilkat River Fish and Game Critical Habitat Area established under AS 16.20.230(8).

Section 2 of the bill establishes the Haines State Forest Resource Management Area, usually referred to in this analysis as the Area.

Sec. 41.15.500 establishes the Haines State Forest Resource Management Area.

Sec. 500(a) provides for the purposes of the Area; the usual phrases are used: the "utilization, perpetuation, conservation, and production of the land and water" of both "renewable and nonrenewable resources" through "multiple use management" and the continuation of other "beneficial uses including traditional uses and other recreational activities".

Sec. 500(b) assigns the management to DNR.

Sec. 41.15.510 is described as the boundaries of the Area.

Sec. 510(a) provides that state-owned or acquired land and water located above mean high tide within the boundaries on a map in the office of the commissioner of natural resources are designated as the Area. For reasons indicated earlier, I would prefer not to use the term "acquired land". For reasons indicated earlier, I consider it poor legislation to withdraw and manage land described no more precisely than on a map in the commissioner's office.

The material at the end of the subsection assigning the management responsibility to DNR duplicates the provisions of Sec. 500(b).

Sec. 510(b) [protection to private land, existing transportation corridors, and borough selection] and 510(c) [Native allotment applications] are the parallels to similar provisions in the sections establishing the Preserve. The same reasons exist here for transferring them to a statement of legislative intent. The same overbroad prohibition

against the use of the eminent domain power by the state appears here.

Sec. 510(b) refers to "borough selection" ambiguously and ungrammatically. It is not clear whether existing borough selections within the Area are protected or excluded in the future. It should be clarified.

Sec. 510(d) requires the division of forestry to consult with the division of parks, etc. to promote effective management of the "Forest" (sic) and the Preserve.

Sec. 510(e) provides that "to the extent practicable," resource studies shall be designed to benefit both the Area and the Preserve. It is a matter of choice to the legislature (and not a matter of practicability) whether studies are designed to benefit both management areas or each separately. The matter should be clarified and an effective direction given; I note that the two areas are managed by different divisions within the same department.

Sec. 510(f) provides that the establishment of the Area has no effect on terms and conditions of existing permits or contracts involving use of the land, water, or other resources of the Forest (sic).

Sec. 41.15.520 provides for multiple use management.

Sec. 520(a) provides that land within the Area shall be managed under the principles of multiple use and sustained yield defined by AS 38.04.910 as well as pursuant to the "Forest Resources and Practices Act" as well as pursuant to a management plan prepared by DNR. I assume that the "Forest Resources and Practices Act" is AS 41.17. Language cast as temporary law within the section (the third sentence) should be recast as permanent law. The term "operational level inventory" is undefined and I do not know what it means. I do not know whether one was completed "within the last ten years". The reference to a "current" operational level inventory makes the language of the sentence temporary law.

Sec. 520(b) provides that DNR shall periodically review the management plan under AS 41.15.510; sec. 510 does not provide for a management plan. The second sentence

Senator Bettye Fahrenkamp
Page 9
April 2, 1982

directing the preparation of the management plan and the third sentence providing for the temporary management of the Area are temporary law. The Haines-Skagway Area Land Use Plan is undefined and I do not know what it refers to.

Sec. 520(c) directs that a copy of the management plan and revisions to it shall be provided to the legislature at stated times.

Sec. 520(d) provides that the Department of Fish and Game is responsible for management of the fish and game resources "under applicable law" and consistent with the purpose and provisions "of this section". The purposes are in Sec. 500.

Sec. 520(e) assigns control of highway access and roadside structures to DNR; the Department of Transportation and Public Facilities is responsible for repair and maintenance of "existing" public roads in the Area; logically, new roads and their repair and maintenance are not addressed under this section.

Sec. 520(f) provides that the state land and water described in Sec 510(a) are closed to the conveyance of fee title (but not apparently to lease) and to future municipal selections. No lands are described in Sec. 510.

Sec. 520(g) provides for much consultation on the adoption of regulations.

Sec. 41.15.530 provides for a cooperative management agreement.

It has a single subsection (a) which provides that DNR may enter into cooperative management agreements with persons who hold title to or have a valid entry on land within or adjoining the boundaries of the Area. The purposes of the management agreement are not delimited or described and the section appears incomplete.

The bill requires further review.

If I may assist further, please advise.

RAB:ljb

Resource Development Council for Alaska, Inc.

44 West 7th Avenue, Anchorage, Alaska 99501
Box 516, Anchorage, Alaska 99510 - 907/278-9615

March 26, 1982

MAR 31 1982

FOR IMMEDIATE RELEASE

SS SB 794

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RDC SUPPORTS CHILKAT BALD EAGLE PRESERVE

THE RESOURCE DEVELOPMENT COUNCIL CALLED ON ITS MEMBERS STATEWIDE TO SUPPORT THE CONSENSUS LEGISLATION CREATING THE ALASKA CHILKAT BALD EAGLE PRESERVE AND THE HAINES STATE FOREST RESOURCE MANAGEMENT AREA. IN A JOINT PRESENTATION WITH DAVE CLINE OF THE NATIONAL AUDUBON SOCIETY, RDC SPOKESMAN KEITH STUMP APPLAUDED THE COOPERATIVE APPROACH TAKEN BY BOTH ENVIRONMENTAL AND DEVELOPMENT INTEREST GROUPS TO RESOLVE THE RESOURCE ALLOCATION ISSUES.

"THE RESOURCE DEVELOPMENT COUNCIL NOT ONLY SUPPORTS THIS COMPROMISE LEGISLATION AS SO CAREFULLY WORKED OUT, IT SUPPORTS THE DIFFICULT BUT WORTHWHILE APPROACH WHICH LED TO THIS RARE CONSENSUS OF ENVIRONMENTAL AND DEVELOPMENT INTERESTS." STUMP SAID.

"THE MORATORIUM GOVERNOR HAMMOND PLACED ON THE AREA IN 1980 PREVENTS THE EFFICIENT DEVELOPMENT OF THE STATE TIMBER SALE ON NEARBY AS WELL AS DIRECTLY AFFECTED STATE LANDS. IT IS TO EVERYONE'S BENEFIT TO RESOLVE THIS ISSUE NOW."

"THE RESOURCE DEVELOPMENT COUNCIL IS AN ADVOCATE OF CONSERVATION WHICH MEANS THE WISE USE OF THE EARTH AND ITS RESOURCES." STUMP WENT ON TO OUTLINE THE PROTECTION PROVIDED IN THE LEGISLATION FOR THE USE OF THE PRESERVE AND SURROUNDING AREA. "TRADITIONAL USES, INCLUDING HUNTING,

MORE

RDC News Release
RDC SUPPORTS CHILKAT BALD EAGLE PRESERVE
March 26, 1982

TRAPPING, FISHING, SUBSISTENCE AND RECREATIONAL USES, OPERATION OF MOTORIZED VEHICLES AND THE HARVESTING OF PERSONAL USE FIREWOOD ARE SPECIFICALLY PROTECTED IN THE LEGISLATION, AS ARE "REASONABLE, TIMELY, AND ECONOMICALLY FEASIBLE ACCESS" FOR PRIVATE LANDOWNERS, AND MINING CLAIM AND MINERAL LEASE HOLDERS.

LOCAL INFLUENCE IN THE DEVELOPMENT OF MANAGEMENT PLANS AND REGULATIONS IS INSURED BY THE FORMATION OF A LOCAL ADVISORY COUNCIL, AND THE DIVISION OF PARKS IS PROHIBITED FROM USING EMINENT DOMAIN TO EXPAND THE PRESERVE OR TAKE AWAY PRIVATE LAND INHOLDINGS, STUMP NOTED.

A CRITICAL PART OF THE CONSENSUS LEGISLATION IS THE "SIMULTANEOUS CREATION OF THE HAINES STATE FOREST RESOURCE MANAGEMENT AREA WHICH IS DEDICATED TO THE MULTIPLE USE CONCEPT SO VITAL TO THE ECONOMY OF HAINES."

STUMP CONCLUDED WITH THE HOPE THAT OTHER CONFLICTING RESOURCE USE ISSUES COULD BE SIMILARLY RESOLVED THROUGH COMPROMISE AND CONSENSUS, RATHER THAN POLARIZATION AND LITIGATION.

*****END*****

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M
JUNEAU, ALASKA 99811
PHONE:

March 25, 1982

The Honorable Bettye Fahrenkamp
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Fahrenkamp:

As I understand you will soon be scheduling a hearing on Senate Bill 796 "an Act providing for the management of State-owned land in the Haines area, establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area." I felt it would be helpful to provide the Resources Committee with a brief chronology of events leading to its introduction.

<u>June 1978</u>	Adoption of Haines/Skagway Land Use Plan
<u>August 1978</u>	Negotiated timber sale contract signed with Schnabel Lumber Co. for lands classified for timber harvest
<u>September 1979</u>	SEACC Lawsuit on Haines Timber Sale
<u>July 1980</u>	Governor's "moratorium" letter to Senator Hart (see attached) Haines Klukwan Resource Advisory Committee established. Haines/Klukwan Cooperative Resource Study begins
<u>June 1981</u>	Progress Report on Resource Study (see attached)

The Honorable Bettye Fahrenkamp
Page Two
March 25, 1982

December 1981

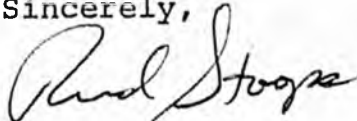
Haines Klukwan Resource Advisory
Committee meets in Haines to discuss
possible legislation to create State
Forest and Eagle Preserve

March 1981

SB 796 introduced with letter of
agreement by City of Haines, Haines
Borough, Schnabel Lumber, SEACC,
Audubon, USFWS, Alaska Miner's
Association.

In summary, almost four years of debate, litigation, research,
and compromise have preceded the introduction of SB 796.
The Department of Natural Resources has a great deal of time
and effort invested in this legislation, and urges your
favorable consideration.

Sincerely,



Reed Stoops
Director
Division of Research
and Development

Attachments



Grand Camp
Alaska Native Brotherhood

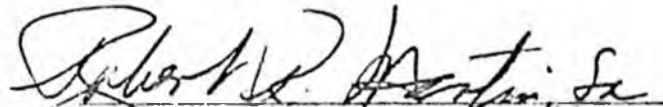
Grand President ANB
Robert R. Martin
1st Vice President
Ivan Gamble
2nd Vice President
Ronald Williams
Secretary
Albert Kookesh
Treasurer
Roy Bailey
Sergeant-At-Arms
Ray Sensmeier
Grand President ANS
Emma Widmark

WHEREAS, The State of Alaska through its legislative process has before it Senate Bill 796 entitled An Act establishing the Alaska Chilkat Bald Eagle Preserve, and

WHEREAS, The Alaska Native Brotherhood has within its members those who will be directly effected by passage of such a bill in either the House or the Senate, and

WHEREAS, the Alaska Native Brotherhood does not support such a bill at this time NOW

THEREFORE BE IT RESOLVED that the Alaska Native Brotherhood Grand Camp Executive Committee hereby gives notice of opposition to Senate Bill 796 and any companion bill in the Alaska State House of Representatives.


Robert Martin Sr. Grand President

Attest:

I certify that this resolution was adopted by the Executive Committee of the Alaska Native Brotherhood in Juneau Alaska on March 13, 1982.


Albert Kookesh Grand Secretary

Past ANB Grand Presidents
Frank G. Johnson
Roy Peratrovich
Alfred Widmark

Cyrus Peck
Frank Peratrovich
Joseph Williams
Patrick J. Paul

Thomas Jackson
John Hope
Frank See
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Richard Stitt
Steven V. Hotch
Nelson D. Frank
Frank O. Williams
Herbert Hope

Frank G. Johnson, Grand President Emeritus
Cyrus Peck Sr., Grand Secretary Emeritus
Mildred Sparks, ANS Grand President Emeritus

February 26, 1982

3/2/82
12:10pm
*Letter of
Consensus*

The Honorable Jay S. Hammond
Governor, State of Alaska
Pouch A
Juneau, AK 99811

Dear Governor Hammond:

This is to advise you that after prolonged study and debate, the undersigned parties have reached a consensus regarding a legislative solution to resource conflicts on State land in the Haines area. This preferred solution involves passage of companion legislation, Senate Bill 796 and House Bill 881, namely, "An Act providing for the management of State owned land in the Haines area, establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area."

Earlier this month, at our request, Senator Ray and Representative Duncan introduced draft bills in both the House and Senate to serve as legislative vehicles. We recommend that the consensus legislation we have agreed to be introduced as "sponsor substitutes" for the introduced legislative vehicles in the very near future.

Since the consensus agreement involves very careful wording of the legislation to achieve a delicately structured compromise, we also strongly urge that the legislation, a copy of which is enclosed, be passed by the Legislature without amendment. Should the bill be amended by the Legislature so as to change its nature, all parties to this agreement reserve the right to pursue alternative courses of action, including but not limited to, opposing passage of the amended legislation. Should passage of unacceptable amended legislation occur, despite our best efforts, then we would request exercise of your veto authority.

All parties to this consensus agree that the reinventory of timber resources in the area is important for the purposes of scientific forest management and expect that a reinventory be made a high priority for funding by your administration. We respectfully request that you direct Commissioner of Natural Resources John Katz to make adequate funding of a current "operational level inventory" in the

February 26, 1982

Haines State Forest Resource Management Area his highest priority in terms of timber inventories and reinventories on state land.

We would also like to request your continued support for the currently uncompleted interdisciplinary resource studies under the purview of the Haines-Klukwan Cooperative Resource Advisory Committee. These cooperative study efforts should provide information useful in developing comprehensive management plans for the proposed Bald Eagle Preserve and State Forest Resource Management Area.

On passage of the proposed consensus legislation by the State Legislature, the National Audubon Society agrees to request that you remove the "moratorium" on development you established in your letter to Senator Gary Hart of Colorado dated July 21, 1980. The Society also agrees to request that Senator Hart and other concerned U. S. Senators and Congressmen support the proposed legislation and your lifting of the moratorium.

In closing, we would like to thank you and your administration, particularly the Department of Natural Resources, for the strong support provided in helping to achieve this unprecedented legislative compromise involving land and resource conflicts in the Haines area. We are convinced that this "Alaskan solution" has the potential for adequately protecting local, state, national and international resource values and other interests in the Chilkat and Chilkoot valleys and could well serve as a model for resolving similar conflicts elsewhere in the State. Furthermore, successful implementation of this legislation once passed should demonstrate to all Alaskans and to the Nation as a whole that protection and management of resource values and other interests can in fact be successfully accomplished.

Your consideration of this request is greatly appreciated.

Sincerely yours,

R. E. Henderson
Mayor of Haines Borough

Jon D. Halliwell
Mayor of City of Haines

February 26, 1982

John J. Schnabel, President
Schnabel Lumber Company

William C. Duncker
President, Lynn Canal
Conservation Council Inc

David R. Clive
Regional Vice President,
National Audubon Society

Jim Steuter
Executive Director,
Southeast Alaska
Conservation Council

Robert A. Ladd Jr.
for Regional Director, U. S. Fish
& Wildlife Service

Alaska Miners Association
Haines Branch

Marshall Palmer

SWS/ke

cc: Hon. Bill Ray
Hon. Betty Fahrenkamp
Hon. Jim Dunca.
Hon. Mike Miller
Hon. Eric Sutcliffe
Hon. Ken Fanning

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: (907) 465-2400

February 24, 1982

Mr. Joe Wilson
P. O. Box 1534
Juneau, AK 99801

Dear Joe,

At the recent Board of Forestry meeting in Juneau, I briefly discussed with the Board my suggestions for a State Forest system. In the aftermath of that meeting, it has come to my attention that a certain degree of misunderstanding may have been engendered by my remarks about boundary delineation of proposed State Forests.

While I stated that boundaries should be drawn primarily to encompass forest lands, I did not mean that every non-forested area should be excised from the forest. I simply meant that large areas which possess important non-forest resource values and are in themselves distinct management units should not be included in the forest.

Recent boundary discussions on the proposed Haines State Forest will illustrate this concept. There are 84,000 acres of commercial forest lands near Haines out of approximately 300,000 total acres. The forest is located between the braided Chilkat River on steep alpine country with important fish and wildlife resources. The state and the community residents of Haines have proposed that 55,000 acres of the riverine system be managed separately to protect its high value fisheries and associated wildlife, and the remainder of State land be designated as a State forest. The alpine areas would be very difficult to manage as a separate unit, and, therefore, should not be excluded from the forest management area. Interspersed among the commercial forest stands are small recreation areas and community watersheds which are also included.

Mr. Joe Wilson

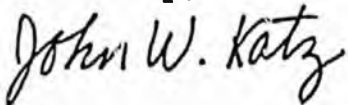
-2-

February 24, 1982

As we look toward establishment of a State forest system, similar situations will arise in the Susitna and Tanana basins. A hard look at the values of non-forested areas and the missions of other Department of Natural Resources land management divisions must be taken before reaching boundary decisions. In so doing, I hope - and attempted to say at the Board's recent meeting - that we will look at land management and resource considerations, not at the number of acres involved: i.e., the old "d(2) numbers game".

I hope that this communication clarifies any misunderstandings that my earlier comments may have generated.

Sincerely,



John W. Katz
Commissioner

cc: Ted Smith
Jack Sedwick
Chip Dennerlein
Reed Stoops
Nick Carney
Senator Bettye Fahrenkamp

P.S. If appropriate, I would appreciate you sending this letter to the other members of the Board.

SSSB 796

LEGISLATION SUMMARY

SSSB 796: "An Act providing for the management of state-owned land in the Haines area, establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area"

Sec. 1: The purpose is to establish the Alaska Chilkat Bald Eagle Preserve. The primary purpose is to protect and perpetuate the Chilkat bald eagles and their habitat, and to protect the salmon spawning and rearing areas of the Chilkat and Chilkoot River systems; other purposes are to provide for research, study and enjoyment of the wildlife and other consistent public uses. The Preserve is dedicated as a special purpose site.

State-owned land and water lying in the Preserve, as described on a map on file with the Commissioner of Natural Resources, is designated as the Alaska Chilkat Bald Eagle Preserve-- subject to valid existing rights--and assigned to the Department of Natural Resources for control, development and maintenance.

Private land, Haines Borough selections, and existing transportation and utility corridors lying within the Preserve are excluded from the Preserve. The state may not acquire them by eminent domain.

Approved and pending Native allotment applications shall be excluded from the Preserve, and approved allotments shall be treated as private land.

The Department of Natural Resources shall consult with the Department of Fish and Game, the U. S. Fish and Wildlife Service, and the Local Advisory Council prior to adopting regulations for the Preserve. The Department of Fish and Game shall consult with the Department of Natural Resources and the Advisory Council in proposing fish and game regulations for the Preserve to the Boards of Fisheries or Game, and cooperate with the U. S. Fish and Wildlife Service in administering the Bald Eagle Protection Act of 1940, and any other appropriate laws and treaties.

Sec. 1: Directs the Department of Natural Resources to manage (cont.) the Preserve for perpetual sustained populations of eagle, salmon and other wildlife and to insure water quality in accordance with existing law.

The Preserve is closed to mineral entry and location, commercial timber harvest, and the conveyance of fee simple title in a state disposal or a municipal selection.

Guarantees traditional uses of the Preserve consistent with protection of the bald eagle population, including hunting, trapping, fishing, berry picking, other subsistence and recreational uses, motor vehicle operation, and personal firewood harvest. Traditional uses shall be permitted subject to regulation. The director of the Division of Parks, after consultation with the Advisory Council, and public hearings, may find that the level or means of traditional use is inconsistent with the primary purposes of this Act, and restrict a traditional use.

Valid existing claims or occupancies surrounded by the Preserve, and valid occupancies or state or federally owned land not part of the Preserve reasonably requiring access across the Preserve, shall be granted access by the director of the Division of Parks, subject to regulation and stipulations by the director, in consultation with the Advisory Council. The director shall give favorable consideration to applications for utility rights-of-way compatible with the Preserve.

The director and the Advisory Council, in consultation with the U. S. Fish and Wildlife Service and the Department of Fish and Game, shall: use information from the Haines-Klukwan Cooperative resources studies and other sources for the development of the Preserve management plan and in managing the Preserve; implement the plan within two years of the effective date; investigate the need for additional research. Requires that studies done for the single purpose of adding to or deleting from the Preserve must be reviewed by the Advisory Council on 90 days prior notice. Authorizes the director to authorize emergency studies by certifying the emergency to the Advisory Council.

Establishes the Alaska Chilkat Bald Eagle Preserve Local Advisory Council, with 11 members to be appointed by the Governor. Members are entitled to per diem and travel expenses. The Council shall be composed of: (1) a Haines Borough resident conservation organization representative; (2) a Haines Borough resident commercial or industrial representative, nominated by the Borough Mayor; (3) the City of Haines Mayor; (4) Haines Borough Mayor; (5) a Klukwan, Inc. nominee; (6) the Chilkat Indian Village IRA Council President; (7) an Upper Lynn

Sec. 1: Canal Local Fish and Game Advisory Board nominee;
(cont.) (8) a Department of Fish and Game representative;
(9) a U. S. Fish and Wildlife Service representative;
(10) a Department of Natural Resources, Division of
Forestry representative; (11) a Department of Natural
Resources, Division of Parks representative.

Members hold two-year terms.

Directs the Advisory Council to assist the Department of
Natural Resources in developing and monitoring the Preserve
management plan.

The establishment of the Preserve does not effect any
substantive or procedural requirements under existing
law applicable to the management or use of adjacent lands.
The directors of the Divisions of Parks and Forestry are
encourage to consult in preparing the management plan
so as to promote coordinated administration of both the
Preserve and the Haines Forest Resource Management Area

It is the intent of the Legislature to protect the purposes
of the Preserve. Establishment of the Preserve represents
a proper balance between reservation of state-owned land
and water for the purposes of the Preserve and other lands
for multiple use; the Legislature believes that no future
legislation changing the boundaries of the Preserve is
necessary.

Repeals the Chilkat River Fish and Game Critical Habitat
Area.

Sec. 2: Amends existing law regarding public resources to
establish the Haines State Forest Resource Management
Area, comprised of designated state-owned land and
water, for the primary purposes of the use, perpetuation,
conservation, and production of the land and water,
including the multiple-use of resources and the continuation
of other beneficial uses.

Directs the Department of Natural Resources to manage
the area.

The Area consists of the state-owned land and water above
the mean high tide line and within the boundaries described
on a map on file with the Commissioner of Natural Resources,
subject to existing valid rights.

Existing private land, transportation corridors and borough
selection are excluded from the Area. The state may not
acquire private land within the Area by eminent domain.

Sec. 2: Approved and pending Native allotment applications within (cont.) the Area are unaffected; approved allotments shall be considered private land.

The Division of Forestry shall consult with the Division of Parks, the Department of Fish and Game, and the Eagle Preserve Advisory Council to promote coordinated management of the Preserve and the Area.

As far as practical, studies performed by the Department shall be for the benefit of the management of both the Preserve and the Area.

The establishment of the Area does not effect on existing resource use permits or contracts in the Area.

Land in the area shall be managed for multiple use and sustained yield and pursuant to applicable existing law and a management plan prepared by the Department of Natural Resources. The plan shall be implemented within two years of the effective date, and may not be adopted or revised without review by the Board of Forestry and public hearings in the Haines Borough, and should be based on current operational level inventory, which should be updated as information becomes available.

Directs the Department of Natural Resources to periodically review the Area management plan. The plan shall be based on the Haines-Skagway Area Land Use Plan. Prior to approval of the plan, management of the Area shall be under the Haines-Skagway Area Land Use Plan.

Requires that a copy of a management plan and any revisions, prepared by the Department of Natural Resources and reviewed by the Board of Forestry and adopted by the Department after public hearings shall be provided to the Legislature within 30 days of its adoption or revision or within the first 10 days of the subsequent legislative session.

Directs the Department of Fish and Game to manage the fish and game resources for the Area, consistent with the purposes of the Area.

Directs the Department of Natural Resources to manage highway access and roadside structures in the Area. Requires the Department of Transportation and Public Facilities to maintain existing public roads in the Area.

Closes state land and water within the Area to conveyance of fee title under state disposals and municipal selections.

Sec. 2: Directs the Department of Natural Resources and the
(cont.) Department of Fish and Game to consult with each other
and hold public hearings prior to adopting regulations
for public use, or management of fish and wildlife, in
the Area.

Authorizes the Department of Natural Resources to enter
into cooperative management agreements with persons having
title or a valid entry on lands within or adjacent to
the Area.

PRIME SPONSOR: Ray

CO-SPONSOR(S): None



THE CITY OF HAINES, ALASKA

P.O. BOX 576
HAINES, ALASKA 99827
(907) 766-2231

In Reply
Refer To: January 28, 1982

Senator Bettye Fahrenkamp, Chairman
Senate Committee on Resources
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp,

The enclosed letter dated January 26, 1982 from Reed Stoops of Department of Natural Resources addressed to residents of Haines and Klukwan represents a summary of critical points surrounding the creation of a bill that would place the 53,000 acre Chilkat Valley Bald Eagle Moratorium Area under a permanent designation and management plan.

Although residents of Haines and Klukwan are reserving judgment until draft legislation can be examined, it has generally been agreed that creation of such a "Chilkat Bald Eagle Preserve" in conjunction with the establishment of a State Forest Resource Management Area under SB 582 could have benefits for both development and conservation interests.

Conceptual support for SB 582 has come from various interests within our community although some boundary changes would be required and some departmental relationships clarified.

When and if draft legislation for the management of the moratorium area is examined by Haines and Klukwan and reasonable community consensus is reached regarding its disposition, I feel it would be appropriate to discuss further with members of the committee how SB 582 and the creation of the Haines-Skagway Forest Area could assist in the long term growth and development of our communities.

I will keep you informed of our progress.

Sincerely,

PAUL WELLMAN

Paul Wellman
CITY OF HAINES

PW/ew
Enclosure

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE:

January 26, 1982

Dear Resident of Haines and Klukwan:

The Haines Klukwan Cooperative Resource Study Advisory Committee held public meetings in both Haines and Klukwan on January 23rd to discuss the desirability of supporting the creation of a State Forest in the Chilkat Valley as proposed under Senate Bill 582 and, at the same time, developing legislation for a specially designated area to protect the Chilkat bald eagles and their essential habitats.

The reasons for initiating legislation at this time are:

1. The desire to achieve a reasonable long-term solution to potential land use conflicts which could not be resolved by the Haines-Skagway Land Use Plan and which resulted in the Governor's commitment to Congress in July 1980 to place a moratorium on major development activities in the proposed eagle area. Certainty will bring social and economic benefits to the communities of Haines and Klukwan, since the various interests concerned with the use of the area will know what to expect and can plan their activities accordingly.
2. The need to adopt a position on Senate Bill 582, a bill establishing State Forests, as it affects areas covered by the Haines-Skagway Land Use Plan.
3. The support for adopting a position on legislation provided by the substantive findings of three years of intensified eagle research, two years of fisheries research and preliminary conclusions of other resource studies conducted to date.
4. The unique opportunity for the local communities and State of Alaska to derive social and economic benefits through participation in the National Bald Eagle Bicentennial.
5. The opportunity to contribute to the State's effort to project to the rest of the nation and live by its reputation of responsible management of its resources by using this legislation as an example of cooperative resolution of a conflict involving local, state and national issues.

Residents of Haines
and Klukwan
Page Two
January 27, 1982

The Advisory Committee traveled to Klukwan on the morning of January 23 to explain the situation and hear what the people of Klukwan had to say about the need for legislation on a State forest and a bald eagle area and the specifics of what that legislation should contain. Generally, the people at the meeting felt they had not had enough past participation in the Haines-Klukwan Resource Studies, in spite of local representation on the Advisory Committee, to be able to quickly assimilate all the information being presented and quickly respond to the question on the need for legislation. Concern was expressed that expanding the area to protect the eagles could infringe on private property and other native claims. There was no expressed support for legislation and, in fact, the preliminary sentiment was against legislation, although people felt they could not make a final decision until they saw the specifics of a bill and understood how it would affect them. There was repeated mention of a 2.6 million acre claim filed by the village on all federal land between William Henry Bay and the Canadian Border. People did not want to compromise this claim or "trespass suit" by supporting legislation and thereby giving credence to the State's claim to the ownership of some of the land in question. There was also concern about the potential effect of legislation on Native Allotments.

In the afternoon the Advisory Committee traveled to the City of Haines for a public meeting on the same subject. Initial comments from the public focused on the concern that because the cooperative resource studies are not finished, legislation at this time is premature. Better information may be available after one additional year of study. Concern was also expressed about possible provisions which might be contained in legislation that could be adverse to local interests.

After lengthy debate, the community residents of Haines asked the Study Committee to work with them to develop legislative proposals so they would not have to speculate about provisions which may or may not be desirable. This was accomplished at a session held on the evening of January 23rd in the city council chambers. The proposals outlined in this letter were tentatively agreed to constitute a reasonable legislative proposal to create both a State Forest and a Bald Eagle Preserve. These proposals will be formally drafted by an attorney from the Legislative Affairs Agency and returned to the people of Haines and Klukwan for their review. If the legislation then receives strong local support, it will be submitted to the Legislature by local initiative with the support of the Advisory Committee. If it does not receive strong local support the Committee and local governments do not intend to pursue it further at this time.

General Purpose

1. To protect and perpetuate the Chilkat Bald Eagles and their essential habitats.
2. To provide opportunities for continued research, study and enjoyment of the eagles.
3. To provide for traditional uses consistent with the purposes for which the area is established.

General Provisions

The area designated will include all state owned lands and exclude private lands or interests in lands (including Native Allotments). No valid third party rights in the area will be diminished. No power of eminent domain will be granted to allow condemnation of private property.

Traditional Uses

Uses which have in the past been compatible with the purpose for which the area is being created, will continue to be allowed. These include but are not limited to hunting, fishing, trapping, subsistence, general recreation, recreational prospecting and gold panning, motorized and non-motorized access, personal use wood, berry picking and grazing.

Level of Development

Development will be allowed that is not incompatible with the primary purpose of the area as determined by the Director of the Division of Parks in consultation with a local advisory committee created in this proposal.

Access

Access to private land that is adequate, reasonable, and feasible for economic and other purposes is guaranteed. Access that is adequate, reasonable, and feasible for economic and other purposes will be guaranteed across the area for commercial and non-commercial uses.

Access routes within the area will be granted after consideration of the purposes for which the area was established and which will minimize to the maximum extent practical, adverse environmental impact.

Management Responsibility

Residents of Haines
and Klukwan
Page Four
January 26, 1982

The area will be managed by the Division of Parks. The Department of Fish and Game's authority to manage fish and game will not be diminished.

Advisory Council

An advisory council will be established to assist the Division of Parks in developing a management plan for the area. The Advisory Committee will also monitor the implementation of the plan. The Council will consist of the following members to be appointed by the Governor:

1. The Mayor of the Haines Borough
2. The Mayor of the City of Haines
3. A resident of the Chilkat Valley representing conservation organizations
4. A resident of the Chilkat Valley representing industry or commerce
5. Two residents of the Village of Klukwan
6. The Department of Natural Resources
7. The Department of Fish and Game
8. United States Fish and wildlife Service

Relationship to Proposed State Forest

Boundaries of the State forest would be complimentary to the boundaries of this preserve and include remaining lands encompassed by the Haines-Skagway Land Use Plan excepting lands in the Skagway area, and lands identified in the Plan for future disposal. The Haines-Skagway Land Use Plan would serve as the area land use plan for the State Forest.

The Haines Borough municipal entitlement will not be altered or diminished. The Department will be directed to acquire University Lands within the preserve and State forest by exchange.

Boundaries

The boundaries are those described in a map dated _____. The area will approximate the existing moratorium area with deletions to include State and private lands on the east side of the highway except that between Mile 18 and Mile 23 State land on both sides of the Haines Highway will be included. More precise boundaries will be described to

include^{no} more commercial timber than is necessary to protect water quality in important spawning and rearing areas. These will be worked out by the Department of Natural Resources, Fish and Game, National Audubon Society and the local timber industry. The area will encompass approximately 50,000 to 53,000 acres. The overlap with lands with commercial forest potential are estimated to be less than 6,000 acres with more precise accounting dependent on final boundary resolution during the week of January 25.

Designation

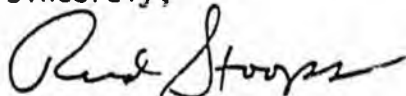
The area will be called the "Alaska Bald Eagle Preserve." It would be the first "preserve" established under State statutes. The designation was selected in part to connote association with a National Preserve which allows sport hunting.

Relationship to Resource Studies

It is intended that the existing Haines-Klukwan Cooperative Resource Advisory Committee will remain in effect until current studies are completed. Continuation of these studies are highly desirable to ensure effective management of the proposed State Forest and Bald Eagle Preserve. The existing moratorium would be terminated by executive action as the preserve would obviate its need.

A draft bill and map will be sent to the Advisory Committee members in Haines and Klukwan as soon as possible for distribution to interested local residents. Upon review, the Committee should notify the Resource Advisory Committee of their conclusions. Depending on those conclusions, we will cooperatively decide on further actions.

Sincerely,



Reed R. Stoops
Director

cc: Haines-Klukwan Cooperative
Resource Advisory Committee
John W. Katz
Theodore G. Smith
J. W. "Jack" Sedwick
Chip Dennerlein



STATE OF ALASKA

OFFICE OF THE GOVERNOR
WASHINGTON, D.C.

July 21, 1980.

The Honorable Gary Hart
United States Senate
254 Russell Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Hart:

At your invitation and that of three other Senators, representatives of my administration have recently met with members of the principal organizations and public agencies which have expressed concern for the future welfare of the Chilkat eagle population. In these meetings, we presented an overview of past State actions which have been taken to protect the eagles and their habitat, and outlined commitments we intend to make in this regard.

In 1972, the Alaska State Legislature established a "Critical Habitat Area" of 4,800 acres to preserve part of the lands used by the eagles in their winter congregation. In addition, the State classified protective riparian corridors for both fish and wildlife values, and designated certain lands for further study to determine their importance to both eagles and fisheries.

Last year, in keeping with recommendations of the Haines/Skagway Land Use Plan, the State cooperated with the communities of Haines and Klukwan, and the National Audubon Society in their initiation of studies of the Chilkat bald eagles. Based on first year recommendations of these studies, I am making \$250,000 in legislative appropriations available for a strengthening cooperative bald eagle study. It is important to me that all parties cooperate in accomplishing one comprehensive eagle study rather than duplicating efforts through two or more such studies.

In addition to helping assure adequate support for the study of eagle ecology, some of these monies will also be committed to comprehensive investigations of related resource values, with special emphasis on hydrology, fisheries, soils, and vegetation. It will be particularly important in these study efforts

The Honorable Gary Hart
July 21, 1980 - Page Two

to identify projected money and manpower needs, and management policies and objectives, to assist the State in providing effective protection to the Chilkat bald eagles under what I recommend should be a cooperative management regime.

An advisory committee involving representatives of the local communities of Haines and Klukwan, the National Audubon Society, and appropriate State and Federal resource agencies will be established by the Commissioner of the Alaska Department of Natural Resources. I will rely on this group to offer direction on how State funds can best be spent to obtain information vital to enlightened management and protection of bald eagles, and the habitat that sustains them.

In keeping with my concern for impacts of these studies on the local communities and on possible management options for the eagles, I am also urging that some of these monies be made available for study of the social, economic and cultural concerns of the city of Haines and the village of Klukwan. The role of the advisory committee will be especially important in this regard, and the State will be looking to that group on how to best acquire and use this essential information.

At present, there are no plans for development in areas currently thought to be of greatest importance to the eagles. To alleviate concerns about the future possibility of such actions prior to completion of the studies, I am declaring a moratorium on all major development activities within the essential bald eagle habitats as described on the attached map dated May, 1980. This is to include any planning for road and bridge construction. Customary and traditional uses important to the welfare of local residents, and which in past years have not adversely impacted the eagles, will continue to be permitted in these areas. Such uses will include, but are not necessarily limited to, hunting, fishing, trapping, subsistence, prospecting, general recreation and both motorized and non-motorized access.

I want to emphasize that the State of Alaska fully recognizes the great State, national and international values of the annual gathering of bald eagles along the Chilkat River. We are committed to cooperating with all interested parties in seeking sound scientific information necessary to effectively conserve the birds, and to place their essential habitats under permanent protection.

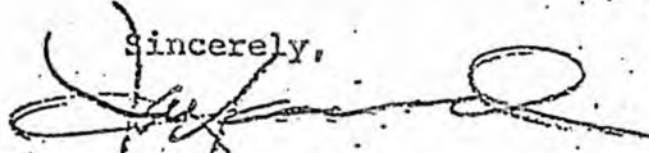
It is my understanding that the moratorium and study outlined above have been discussed with, and are satisfactory to, representatives of Haines and the Alaska Coalition. The study which

The Honorable Gary Hart
July 21, 1980 - Page Three

I have alluded to will be carried out cooperatively with these groups, which will be represented on a policy advisory committee.

If you have any questions or comments regarding the arrangements which I have just described, please let me know.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jay S. Hammond", written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

Jay S. Hammond
Governor

- cc: The Honorable Ted Stevens
The Honorable Mike Gravel
The Honorable John H. Chafee
The Honorable Jennings Randolph
The Honorable John C. Culver
The Honorable Frank Church

Eagle preserve hailed at hearing

By KIRK McALLISTER
Empire Staff Reporter

Legislation establishing a state preserve for bald eagles of the Chilkat Valley near Haines was hailed as an historic consensus agreement between diverse groups in a Senate Resources Committee teleconference Wednesday.

The bill is the result of three years of study and debate over preservation of the eagle habitat and represents a compromise between fishing and conservation groups and timber and mining interests in the Haines area.

The legislation creates the Alaska Chilkat Bald Eagle Preserve to protect the eagles' habitat and the salmon spawning and rearing areas of the Chilkat and Chilkoot River systems within the

Continued on Page 2



Bald eagle: Breakthrough in Haines.

Photo by Mark Kelley

Eagles...

Continued from Page 1

preserve.

It would also establish a state forest resource management area that would be open to multiple uses, such as logging and mining. The preserve would be administered as part of the state park system.

Traditional uses, including subsistence uses, are protected in the bill, as are access for private landowners and mineral lease holders.

A local advisory council was created to insure local influence in the development of management plans and regulations.

Each fall and winter over 3,500 eagles gather along the Chilkat River to feed on spawning salmon. It is the largest known concentration of bald eagles in North America.

A major breakthrough was achieved February 28 when principal parties to the debate signed a consensus letter to Gov. Jay Hammond and the Legislature supporting passage of the bill, which was introduced by Sen. Bill Ray, D-Juneau.

The Senate Resources Committee heard testimony from a

variety of groups supporting the legislation, including the Department of Natural Resources, the mayor of the HAINES Borough, the National Audubon Society, the Southeast Alaska Conservation Council, the mayor of the City of Haines, Schnabel Lumber Co., the U.S. Fish and Wildlife Service, Lynn Canal Conservation Inc., the Resource Development Council and the Haines branch of the Alaska Miners Association.

Dave Cline, of the Alaska Audubon Society, testified that the legislation represented a "model solution" that could provide an example for resolving conflicting resource use issues in the state "through compromise and consensus, rather than polarization and litigation."

Jim Stratton, executive director of the Southeast Alaska Conservation Council said: "This is the first time SEACC and John Schnabel have been on the same side of things, so I'd like to see the bill pass."

The bill received the unanimous support of all interested parties except one — the native village of Klukwan.

"The Natives of the Chilkat Valley are concerned over the loss of their lands and aboriginal claims for the past 100 years," said Joe Hotch, vice president of the Chilkat Indian Village, in testimony to the committee.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT



Alaska State Legislature

SENATE Resources Committee

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

TO: Senate Resources Committee

FROM: Senate Resources Committee Staff

RE: SSSB 796
Providing for the management of state owned land
in the Haines area, establishing the Alaska
Chilkat Bald Eagle Preserve and the Haines State
Forest Resource Management Area.

DATE: April 13, 1982

Please find attached further background information,
just received today, outlining points raised during
the recent Committee hearing on SSSB 796.

This bill is scheduled for hearing Wednesday,
April 14, 1982 at 1:30 p.m. in the Beltz Room.

SB796

received
4/13/82

INDEX

1. Letter from City of Haines and Haines Borough to Klukwan I.R.A. Chilkat Indian Village Council
 - A. Reservation Status Report
 - B. Haines Borough Attorney Letter on Native Trespass Claims
 - B. Case File Report on Trespass Suit
 - B. Case File Report on Trespass Suit Appeal
 - C. Letter from State of Alaska Department of Natural Resources - Subject - Native Allotments
 - D. Klukwan I.R.A. Chilkat Indian Village Council Petition



THE CITY OF HAINES, ALASKA

P.O. BOX 576
HAINES, ALASKA 99827
(907) 766-2231

In Reply
Refer To: April 7, 1982

Klukwan IRA Chilkat Indian Village
Council
Klukwan, Alaska

Dear Sirs:

In reference to your past objections to Senate Bill 796 sponser substitite as verbally expressed, and as expressed in your petition dated 3/8/82, we would like to take this opportunity to address the issues raised by your communications.

Jimmy Stevens requested that the proposed Eagle Preserve have legally defined boundaries, and also that the acreage of the proposed Eagle Preserve be known.

The Department of Natural Resources, State of Alaska, has completed the legal description of the proposed Eagle Preserve, and has determined that there are 47,432 acres of land in the proposed preserve including private land.

It was verbally expressed that there was concern over a past 12,800 acre reservation consideration that occured in 1946.

Please review the attached document "A", which we believe will establish that the proposed reservation is not a current issue.

In response to your petition dated 3/8//82, we would like to sure you that we are fully aware that the Klukwan IRA Chilkat Indian Village council is a different entity than Klukwan Inc. We acknowledge this important difference, and we are aware that Klikwan Inc. does not speak for Klukwan nor represent Klukwan politically.

In response to the 2.6 acre trespass suit as identified in your 3/8/82 petition, our research on this issue establishes the fact that the suit was settled in Arco v. United States, and that the suit has no legal future.

Please review document attachment "B" which addresses this issue.

In response to the Native allotment issue, we appreciate and share your concern on an issue that is of such importance to native culture and their traditional use of the land.

We have recently attended a meeting between various groups of

April 7, 1982

people concerned and involved with the native allotment issue. These groups include the following agencies and organizations.

1. Department of Natural Resources, State of Alaska
2. B.I.A., Federal Government
3. Tlingit Haida Central Council
4. Alaska Legal Services, Anchorage, Lawyer for allotment holders
5. Haines Borough
6. City of Haines
7. Allotment applicants


The Haines Borough and City of Haines gave at this meeting, and will continue to give, political support to the allotment position.

A very favorable agreement for the allotment applicants was worked out at this meeting with the State of Alaska, Department of Natural Resources.

Please review a copy of a letter received from the D.N.R. stating their position on the Chilkat, Chilkoot Native allotment, attached as document "C" to this letter.

We would like to take this opportunity to invite the Klukwan I.R.A. Chilkat Indian Village council to a meeting with representatives of the Haines Borough and City of Haines at a time and place convenient to you for the purpose of continued discussion on Senate Bill 796.

We are hopeful that by working together we can resolve any remaining problems with Senate Bill 796.



Jon D. Halliwill
Mayor
City of Haines

Sincerely yours,



Merrill Palmer
Borough Consultant

xc: Bill Ray
Jim Duncan
Mike Miller
Bettye Fahrenhamp
City of Haines
Klukwan Inc.

PROPOSED NATIVE RESERVATION FOR THE INHABITANTS OF KLUKWAN

Statement of Facts

Section 2 of the act of May 1, 1936 (49 Stat. 1250, 48 U. S. C. sec. 358a), extending the Indian Reorganization Act to Alaska provides:

"SEC. 2. That the Secretary of the Interior is hereby authorized to designate as an Indian reservation any area of land which has been reserved for the use and occupancy of Indians or Eskimos by section 8 of the Act of May 17, 1884 (23 Stat. 26), or by section 14 or section 15 of the Act of March 3, 1891 (26 Stat. 1101), or which has been heretofore reserved under any executive order and placed under the jurisdiction of the Department of the Interior or any bureau thereof, together with additional public lands adjacent thereto, within the Territory of Alaska, or any other public lands which are actually occupied by Indians or Eskimos within said Territory: Provided, That the designation by the Secretary of the Interior of any such area of land as a reservation shall be effective only upon its approval by the vote, by secret ballot, of a majority of the Indian or Eskimo residents thereof who vote at a special election duly called by the Secretary of the Interior upon thirty days' notice: Provided however, That in each instance the total vote cast shall not be less than 30 per centum of those entitled to vote: Provided further, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied."

In November 1943, Assistant Director of Lands T. W. Whitt submitted to the Office of Indian Affairs a proposal for a reservation for the Indians of Klukwan, comprising approximately 12,800 acres, in the vicinity of Salmon River and Chilkat Lake, running along the

northern shore of the lake at its head and then to the Chilkat River. This proposal was supported by a petition signed by 42 natives.

No action was taken by the Department during the war, but the activity in connection with the Haines cut-off to the Alaska Highway, running very near the native community and the likelihood of an influx of white persons to the area and the development of tourist facilities prompted consideration of the proposed reserve in the spring of 1946. On August 22, 1946, Public Land Order No. 324 was published in the Federal Register (11 F. R. 9142), withdrawing public lands for classification and proposed designation as a native reservation for inhabitants of Klukwan. The lands were described as follows:

"The tract of land at Klukwan, near the mouth of the Chilkat River, near latitude $59^{\circ}30'$, longitude 136° , that was reserved and set apart for educational purposes by Executive Order of May 4, 1907, containing approximately 0.16 of an acre;

"The lands on the left bank of Chilkat River included in Sec. 32, S $\frac{1}{2}$ Sec. 33, SW $\frac{1}{4}$ Sec. 34, T. 28 S., R. 55 E.; NW $\frac{1}{4}$ Sec. 5, NE $\frac{1}{4}$ Sec. 6, T. 29 S., R. 57 E., Copper River Base and Meridian, that were reserved for the use of the natives of Alaska residing then or thereafter at the Village of Klukwan by Executive Order No. 1764, of April 21, 1913, as modified by Executive Order No. 3673, of May 15, 1922, containing approximately 800 acres;

"The N $\frac{1}{2}$ Sec. 33, T. 28 S., R. 56 E., Copper River Base and Meridian, that was reserved for school, health, and other purposes by Secretarial Order of April 27, 1943, issued pursuant to authority contained in the Act of May 31, 1938 (52 Stat. 593), containing 320 acres; and,

"The area described as: Beginning at a point on the divide between the stream flowing into Chilkat Lake and the stream flowing into the Taklin River, approximate latitude $135^{\circ}46'30''$ W., approximately longitude $59^{\circ}17'06''$ N. This point is approximately $1\frac{3}{4}$ miles south from the

right bank of the Chilkat River as shown on sheet No. 9 International Boundary between United States and Canada, 1923 Edition. Thence following down right bank of stream to Chilkat Lake; thence along easterly shore of Chilkat Lake and stream to the Salmon River; thence along right bank of Salmon River to the Chilkat River; thence south-easterly along right bank of said river to a point due north of the place of beginning; thence south approximately 1 3/4 miles to initial point, containing approximately 12,800 acres."

Notice of public hearings to determine whether Public Land Order No. 324 should be rescinded, modified or let stand, and whether the lands described therein should be designated as a reservation appeared in the Federal Register for August 22, 1946 (11 F. R. 9144), setting the hearings for September 16-21 in Juneau and Fairbanks. The notice was subsequently amended (11 F. R. 10398) to provide for hearings at Fairbanks on October 10 and at Klukwan on October 15. The Chief of the Alaska Branch of the Division of Territories, Joseph Flakne, was designated hearing officer, and I was to act as his alternate. Mr. Flakne was unable to leave Washington at the time set for the hearings; I therefore presided.

Hearings were held at Klukwan on October 15. The General Superintendent of the Alaska Native Service, the Counsel at Large for the Department and a representative of the canned salmon industry were present. Twenty-three natives appeared and gave testimony; about 40 of the 100-odd inhabitants attended the hearings. The record, unfortunately, does not appear in verbatim form. The stenographer was inexperienced and unable to transcribe accurately the exchanges of questions and answers. Some of the witnesses' remarks appear in

the transcript as uninterrupted statements, whereas in fact they were made in response to questions asked by Messrs. Folta, Foster and me.

Findings of Fact

1. The area proposed to be designated as a reservation comprises approximately 14,000 acres of land.
2. There was considerable conflict of testimony as to whether the boundaries of the reservation as proposed had been discussed with the natives (R. 6, 10, 24, 26, 28).
3. The boundaries were apparently determined by a teacher of the Alaska Native Service and by a representative of the Indian Office, in 1943 (R. 13-15, 26).
4. According to testimony and to a statement submitted by the teacher involved, the proposal for a reservation was presented as a temporary arrangement with the thought that additional areas could and would be added later (R. 13), or that it would be an extension of the present Klukwan reserve (R. 15 and letter of Mrs. Powell, formerly Perkins, to Mr. Foster, October 26, 1946).
5. Although a representative of the Alaska Salmon Industry, Inc. was present at the hearings, neither he nor any other white person interposed any objection to the withdrawal as proposed.
6. Nine persons thought the area set out in the Land Order was too small for a satisfactory reservation (R. 6, 10, 13, 16, 18, 19, 21, 23, 24).

7. All of the natives were confused as to the legal characteristics of a reservation (R. 5, 6, 25), and had previously understood that they would acquire fee simple title to the lands (R. 13, 25). The term "reservation" apparently carries connotations of bureaucratic control, in the minds of most witnesses, which do not attach to the term "reserve", which is the term commonly applied to the area in which these natives now live. Thus none of the witnesses who objected to "reservations" as an infringement on Indian rights had any objection to offer to the existing Klukwan Reserve.

8. In the course of the hearing the natives were advised by the Superintendent of the Alaska Native Service that a reservation would be "government property" (R. 25) and that any "payments for land" (presumably on leases or timber contracts) would "go to the Juneau office" (R. 6). On the basis of these and similar statements (R. 4, 5, 27), the leading spokesman of the Klukwan community announced that he and the entire community would refuse any reservation and insist, instead, upon recognition of their Indian title (R. 27). Although the record does not show this clearly, because of defective reporting, this position was confirmed by all witnesses, and those witnesses who had signed the 1943 reservation petition repudiated their petition on these grounds (R. 13, 25).

9. Since the hearing, I have been advised by the Indian Office and the Solicitor's Office that the above statements of Superintendent Foster are in conflict with Indian Office policy and with governing

law. The Indian Office policy, I am advised, is to encourage local organized Indian groups to handle their own rentals and income, and any use of agency facilities for banking is purely optional with the natives themselves. If they prefer to deposit income in a local bank, as at Metlakatla, they are free to do so. The law, I am advised, is that Indian title to reservation land is a complete fee simple title in equity and, in the words of the Supreme Court, "For all practical purposes they owned the land." (U. S. v. Shoshone Tribe, 304 U. S. 111, 116). Statutory restrictions on the alienation of Indian lands apply not only to reservation lands but equally to non-reservation lands. (U. S. v. Candelaria, 271 U. S. 432) The Indian Office advises me that it is taking steps to correct the misunderstanding that was made evident at this hearing in the testimony of Superintendent Foster. Nevertheless, it is a fact that the natives would not themselves as a group or individually, be able to convey legal title to the land, and it was their ability to sell their lands freely, if they wished, in which they were interested (R. 25-28).

10. Not a single witness was in favor of the reservation as proposed.

11. However, despite the fact that they were dismayed to hear that a reservation would not give them fee simple title, there was considerable sentiment in favor of some action by the Federal Government which would effectively protect the kind of life they had led from time immemorial (R. 3, 7, 9, 11, 17, 18, 20, 24).

12. The native economy is based on fishing, berry-picking and hunting and trapping (R. 3, 6, 17, 25).

13. Fishing is done chiefly in Chilkat Lake, which supplies trout, sockeyes, ooligans and other fish (R. 9, Ex. B, C, E, F), which are dried and smoked (Ex. C, F, R. 20).

14. Berries, salmon berries, cranberries, blueberries, soapberries, and elderberries, are found "up on the mountains" (R. 3, 9, Ex. D, J) and around Chilkat Lake (Ex. C). The berries are dried, made into cakes, preserved in oil or made into a kind of jam and some of these products are sold commercially (Ex. D).

15. Most of the hunting and trapping, of marten, fox bear, goats, lynx, mink and porcupine, is done in the watershed area of Chilkoot and Chilkat, bounded on the north by the Canadian border (R. 3, 11, 16, 18, 20, 22, 23, 24), by a point between Klukwan and Haines (Berner's Bay) to the south (R. 16, 18, 20, 23, 24) and the mountain ranges to the east and west (R. 7, 9, 16, 18, 24, 29). (See also R. 6, Ex. B, C, D.)

16. Within this area, there is steady encroachment by white homesteaders (R. 17, 18, 24, 29) who are cutting down timber on lands regarded by the natives as a source of winter fuel (R. 3, 18), are interfering with native hunting (R. 3, 7, 17), and trapping activities (R. 3, 7, 12).

17. With all the encroachments and interferences, it is becoming increasingly harder for natives to make a living (R. 7, 11, 12, 17, 18, 19, 21, 23, 24), and the native justifiably fear that there will be an increasing number of homesteaders (R. 7, 18, 19, 21, 24).

18. The reservation as proposed is of no economic benefit to the natives (R. 14, 15, 16, 20, 24).

19. It contains little timber (R. 18), is very gravelly (R. 15) and has little fish (R. 12) or game (R. 12). One witness stated "You can't even kill rabbits in that area" (R. 24).

Analysis

The intention in setting up the proposed reservation was to give the natives of Klukwan some economic security and to protect them against infringement of their ancient trapping, hunting and fishing rights. Since a substantial percentage of the Klukwan natives had actually petitioned the Department for the reservation, it was thought, at the start of the hearings, that the bulk of the testimony would merely go to support the earlier petition.

However, it became apparent immediately that even the signers of the petition had been confused in their concept of a reservation. The testimony was overwhelming that the natives had ranged over an area extending to the Canadian border, between the mountain ranges lying to the east and west of the village, and south to Berner's Bay. They had earned their livelihood and based their economy in this area since time immemorial, and they understood that the setting up of a reservation would confirm title to lands they had always used. Some of them repudiated their petition when they heard that they would not be acquiring title to even the area proposed to be designated as a reservation and others disavowed their request when they finally realized how small the area proposed to be designated was in comparison to the area they are accustomed to draw upon.

Not only is the area small, but it is of no use to the natives. It is not the source of their game, their fish, their timber or their berries. To confirm them in the exclusive use of the area proposed is to give them nothing of value. The interference they have experienced from white homesteaders, and which they anticipate will increase, has come not in the area described in Public Land Order No. 324, but in the valuable timber land, the berry patches, the lakes and rivers where fish abound.

It is already more difficult for the natives to gather subsistence supplies, and unless encroachment is promptly and effectively prevented in the area where it is a danger to the native economy, the standard of living will fall below subsistence level. In theory, of course, the natives will not be restricted to the area set aside as a reservation, but as a practical matter, if they have no authority to control fishing, trapping and hunting by whites in the larger area, and if the Department does nothing to limit use of this larger area by outsiders, they will be slowly driven back to the small area within which they are supreme, and the record shows conclusively that they cannot confine their activities to that area and at the same time maintain their present living standard.

The record clearly demonstrates that the 700 square miles of the watershed of Chilkat and Chilkoot, up to the Canadian border and down to a point between Klukwan and Haines, was used by natives of Klukwan from time immemorial and is needed to keep the community life at its present level. Since it is not economically feasible to withdraw from

the public domain so substantial an area in southeastern Alaska, and since the natives themselves are more interested in establishing their possessory rights than in having a reservation of whatever size set up, I make the following recommendations for action by the Department, looking to protection of the ancient hunting, trapping, fishing and berrying grounds of the natives of Klukwan:

Recommendations

1. I recommend that the land described in Public Land Order No. 324 be not designated as a reservation.
2. I recommend that the Department arrange, in accordance with the procedure prescribed by the Acting Secretary on June 10, 1946 (11 F. R. 6911), for hearings to determine the extent of possessory claims of the natives of Klukwan in the area they claim as their own.
3. I recommend that, upon the determination of the extent of such rights, arrangements be made to give the people of Klukwan the choice of retaining the lands as to which their title has been confirmed, or selling portions thereof, the proceeds of such sale to be set aside for the establishment of native community projects, such as canneries, freezing plants, etc. Opportunity may thus be afforded for the establishment of private enterprise and for expansion of native industries, and the natives will receive a quid pro quo for lands from which they are presently being driven with no economic return. It is probable

that additional legislative authority, similar to the Bartlett bill, H. R. 5731 of the 79th Congress, would be necessary effectively to carry out this program, to the extent that it may be put into effect.

(Sgd) IRWIN W. SILVERMAN

Irwin W. Silverman,
Presiding Officer.

Approved: December 9, 1946.

(Sgd) J. A. Krug,

Secretary of the Interior.

(Public Land Order 324)

Alaska

RESERVE AND PUBLIC LANDS FOR CLASSIFIC TION AND PROPOSED DESIGNATION AS
NATIVE RESERVATIONS FOR INHABITANTS OF VILLAGES OF BARROW AND KLUKAN,
AND VICINITY

By virtue of the authority vested in the President, and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights and to existing withdrawals, the following described public lands in Alaska are hereby temporarily withdrawn from settlement, location, sale, or entry and reserved for the purpose of classification and proposed designation under section 2 of the act of May 1, 1936, 49 Stat. 1250 (U.S.C., Title 48, sec. 352a), as a native reservation for the use and occupancy of the native inhabitants of the native village of Barrow and vicinity, Alaska:

Beginning at a point on the Arctic Ocean 30 miles southwest of Point Barrow, air line, approximate latitude $71^{\circ}05'27''$ N., approximate longitude $157^{\circ}10'$ W., running thence in a southeasterly direction to McLavish Point; thence following along the coast of Dease Inlet, Elson Lagoon, and the Arctic Ocean, including Point Barrow, to the place of beginning, and including the waters adjacent to the above-described area extending 3,000 feet from the shore at mean low tide, all as shown on the Reconnaissance Map of Northwestern Alaska, 1930, prepared by the United States Geological Survey in cooperation with the Bureau of Engineering, Department of the Navy, containing approximately 750 square miles of land and approximately 50 square miles of water.

Subject to valid existing rights and to existing withdrawals, the following described public lands in Alaska are hereby temporarily withdrawn from settlement, location, sale, or entry and reserved for the purpose of classification and proposed designation under section 2 of the act of May 1, 1936, 49 Stat. 1250 (U.S.C., Title 48, sec. 352a), as a native reservation for the use and occupancy of the native inhabitants of the native village of Klukwan, and vicinity, Alaska:

The tract of land at Klukwan, near the mouth of the Chilkat River, near latitude $59^{\circ}30'$, longitude 136° , that was reserved and set apart for educational purposes by Executive Order of May 4, 1907, containing approximately 0.16 of an acre;

The lands on the left bank of Chilkat River included in Sec. 22, SW 1/4 Sec. 33, SW 1/4 Sec. 34, T. 28 S., R. 56 E., NW 1/4 Sec. 5, NE 1/4 Sec. 6, T. 29 S., R. 57 E., Copper River Base and Meridian, that were reserved for the use of the natives of Alaska residing then or thereafter at the Village of Klukwan by Executive Order No. 1764, of April 21, 1913, as modified by Executive Order No. 3613, of May 15, 1922, containing approximately 800 acres;

The NW 1/4 Sec. 33, T. 28 S., R. 56 E., Copper River Base and Meridian, that was reserved for school, health, and other purposes by Secretarial Order of April 27, 1943, issued pursuant to authority contained in the Act of May 31, 1936 (52 Stat. 593), containing 320 acres; and,

The area described as: Beginning at a point on the divide between the stream flowing into Chilkat Lake and the stream flowing into the Takhin River, approximate latitude $135^{\circ}46'30''$ W., approximate longitude $59^{\circ}17'06''$ N. This point is approximately $1\frac{3}{4}$ miles south from the right bank of the Chilkat River as shown on sheet No. 9, International Boundary between United States and Canada, 1923 Edition. Thence following down right bank of stream to Chilkat Lake; thence along easterly shore of Chilkat Lake and stream to the Salmon River; thence along right bank of Salmon River to the Chilkat River; thence southeasterly along right bank of said river to a point due north of the place of beginning; thence south approximately $1\frac{3}{4}$ miles to initial point, containing approximately 12,800 acres.

AUGUST 14, 1946.

OSCAR L. CHAFFAN
Acting Secretary of the Interior.

(F. R. Doc. 46-14620; Filed, Aug. 21, 1946;
9:43 a. m.)

B

THOMAS P. BLANTON
ATTORNEY AT LAW
P.O. BOX 616
HAINES, ALASKA 99827
(907) 766-2344

April 7, 1982

The Honorable R.E. Henderson
Mayor
Haines Borough
P.O. Box H
Haines, Alaska 99827

Re: Trespass Claims by Alaska Natives

Dear Mayor Henderson:

In an effort to determine what actually happened to the 2.6 million acre trespass claim of the Klukwan IRA Chilkat Indian Village, I contacted the Solicitors Office of the United States Department of Interior in Anchorage, and spoke with Field Solicitor, Bruce Landon.

I was advised that the Federal District Court Case of United States of America (and Inupiat Community of the Arctic Slope) v. Atlantic Richfield Company et al decided the trespass claims for all the companion cases, and as a result of that case, all other cases were dismissed by the Courts.

U.S. v. Atlantic Richfield Company 435 Fed. Supp. 1009 (1977) was tried in the United States District Court for the District of Alaska before Federal Judge James M. Fitzgerald. The decision in that case held that the Alaska Native Claims Settlement Act, pursuant to which natives were granted in exchange \$962,500,000 and 40 million acres of land in fee simple, extinguished not only the Aboriginal titles of all Alaska natives, but also every claim "based on" Aboriginal title in the sense that the past or present existence of Aboriginal title is an element of the claim, and the Act would be given retrospective construction so that entities under Federal authorization and conditional state leases were not pre-Act trespasses as claimed.

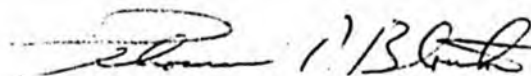
This decision, in favor of Atlantic Richfield and the other named defendants, was appealed to the United States Circuit Court of Appeals for the Ninth Circuit. The decision of that appeal is found in 612 Fed. Supp. 1132 (1980). The United States Circuit Court of Appeals, for the Ninth Circuit, affirmed the lower Court's decision. The appellants, the United States of America, on behalf of the Inupiat Community of the Arctic Slope, further appealed the case to the United States Supreme Court and that Court declined to hear the matter.

Trespass Claims by Alaska Natives
April 7, 1982
Page Two

This line of cases, forever settled the trespass claims based on
Aboriginal title, of all Alaska native groups.

A copy of the United States District Court Decision and the United
States Circuit Court of Appeals for the Ninth Circuit Decision
accompany this letter.

Very truly yours,


Thomas P. Blanton

B

UNITED STATES v. ATLANTIC RICHFIELD CO.

1099

Crews v. 75 F.Supp. 1079 (1977)

cause there is little likelihood that the persons who are enjoined by this Order will suffer monetary damage during the life of the Order and because Mr. Levstik has not indicated to the Court that a bond is needed. See, Fed.R.Civ.P. 65(c).

IT IS FURTHER ORDERED that this Temporary Restraining Order shall expire on the tenth day after the date it is filed, unless extended pursuant to Fed.R.Civ.P. 65(b).

A subsequent order of this Court will shortly be forthcoming setting a hearing date for Dr. Crews' Motion for a Preliminary Injunction.

IT IS FURTHER ORDERED that Dr. Crews' Motion, filed November 18, 1976, to make Timothy E. Levstik ("State Court Receiver") a new party defendant in this case is granted.

IT IS SO ORDERED.

trespass to land claimed on the basis of aboriginal title. The District Court, Fitzgerald, J., held that: (1) Settlement Act extinguished aboriginal title to lands tentatively approved to the State or conveyed pursuant to federal law as of date of the tentative approval or conveyance, rather than merely from effective date of the Settlement Act; (2) Act extinguished all remaining aboriginal title and native claims as of its effective date, (3) Act goes beyond extinguishment of claims for compensation of taking of Indian land and extinguishes all native claims based on alleged aboriginal occupancy, including claims against private parties for past trespasses and (4) trespass claims based on unrecognized aboriginal title are not a protected property interest and, hence, extinguishment of native trespass claims against third parties presented no Fifth Amendment problem.

Motion granted

1. Public Lands ≈3

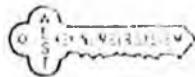
Aboriginal title, as opposed to Indian title recognized by treaty or reservation, is legally extinguishable when the United States makes an otherwise lawful conveyance of land pursuant to federal statute. Alaska Native Claims Settlement Act, § 2 et seq., 43 U.S.C.A. § 1601 et seq.; Alaska Statehood Act, § 1 et seq., 48 U.S.C.A. preceding section 21.

2. Public Lands ≈3

Congressionally authorized conveyance of lands from the public domain demonstrates the requisite intent to extinguish the Indian right of exclusive use and occupancy to those lands; hence, when Secretary of the Interior issued a patent to a homesteader in Alaska, aboriginal title of the native inhabitants was extinguished with respect to the patented land. Act May 14, 1898, 30 Stat. 409, Alaska Native Claims Settlement Act, § 2 et seq., 43 U.S.C.A. § 1601 et seq.

3. Public Lands ≈3

Conveyance of land in derogation of a congressional directive to respect and protect native occupancy would be void and



UNITED STATES of America, Plaintiff,
Inupiat Community of the Arctic Slope,
Plaintiff-Intervenor,

v.

ATLANTIC RICHFIELD COMPANY
et al., Defendants.

No. A 75-215 Civil.

United States District Court,
D. Alaska

June 3, 1977.

The United States, in its own behalf and on behalf of Eskimos inhabiting Arctic Slope of Alaska, sued the State of Alaska and 140 corporations and private parties for trespass to native land prior to passage of Alaska Native Claims Settlement Act. Defendants moved to dismiss all claims of

legally ineffective to extinguish aboriginal title. Alaska Native Claims Settlement Act, § 2 et seq., 43 U.S.C.A. § 1601 et seq.

4. United States ⇐105

Intent of Congress in enacting Alaska Native Claims Settlement Act was to settle claims of Alaska natives and compensate them without deciding difficult question of existence and extent of aboriginal title to Alaska lands; hence, since Treaty of Cession and Congressional legislation, including Statehood Act, preceding the Settlement Act incidentally affected but did not purport to resolve issues relating to native land claims, it was appropriate to look directly to Settlement Act to discern congressional intent with respect to settlement and extinguishment of claims based on aboriginal title. Alaska Native Claims Settlement Act, § 2 et seq., 43 U.S.C.A. § 1601 et seq.; Alaska Statehood Act, § 1 et seq., 48 U.S.C.A. preceding section 21; Treaty of Cession, 15 Stat. 539.

5. States ⇐8

Purpose of Alaska Statehood Act was to insure that the new state would be economically viable. Alaska Statehood Act, § 1 et seq., 48 U.S.C.A. preceding section 21.

6. Public Lands ⇐3

Provision of Alaska Native Claims Settlement Act that prior conveyances of public land pursuant to federal law as well as tentative approvals pursuant to Statehood Act are to be regarded as an extinguishment of any aboriginal title thereto retroactively extinguished aboriginal title as of date of prior conveyances or tentative approval of state land selections under Statehood Act and did not merely validate prior federal conveyances and tentative land selection approvals as of effective date of Settlement Act; also, Act extinguished all remaining aboriginal title and native claims as of its effective date. Alaska Native Claims Settlement Act, §§ 2 et seq., 4(a), (b), 43 U.S.C.A. §§ 1601 et seq., 1602(a), (b); Alaska Statehood Act, § 1 et seq., 48 U.S.C.A. preceding section 21.

7. United States ⇐105

Purpose of provision of Alaska Native Claims Settlement Act that all conveyances pursuant to the Act are subject to valid existing rights and that patents issued under the Act are subject to preexisting rights, such as leases issued under Statehood Act, was to protect rights and expectations of persons who previously received an interest in the land pursuant to federal law; to hold such prior lessees, permittees or grantees liable for trespass for entries made prior to effective date of Settlement Act would contravene the express legislative purpose fully protecting rights of those who entered the North Slope in reliance on federal authorization. Alaska Native Claims Settlement Act, §§ 4(a), 14(g), 43 U.S.C.A. §§ 1603(a), 1613(g); Alaska Statehood Act, § 6(g), 48 U.S.C.A. preceding section 21.

8. United States ⇐105

In enacting Alaska Native Claims Settlement Act, Congress viewed previous federal conveyances of lands claimed by Alaska natives as past takings of aboriginal title and intended, by the Settlement Act, to compensate the natives for such past appropriations as well as for extinguishment of any remaining aboriginal land rights. Alaska Native Claims Settlement Act, § 4, 43 U.S.C.A. § 1603.

9. United States ⇐105

Alaska Native Claims Settlement Act eliminated any basis for native claims relating to pre-Settlement Act entries on land tentatively approved to the state under the Statehood Act or previously conveyed to private parties; hence, Settlement Act required dismissal of claims for entries under state leases pursuant to the Statehood Act or entries pursuant to valid federal leases or conveyances. Alaska Native Claims Settlement Act, § 4(a), (c), 43 U.S.C.A. § 1603(a), (c); Alaska Statehood Act, § 6(g), 48 U.S.C.A. preceding section 21.

10. Indians ⇐19

Provision of Alaska Native Claims Settlement Act extinguishing claims against the United States for the loss of aboriginal title and rights thereto, by persons

claims of injury or loss of personal property not dependent on a showing of aboriginal title or trespass claims asserted by individual natives or a group of natives having fee title or a leasehold interest in land, since a claim of trespass to such land can be proven without a showing of aboriginal use or occupancy. Alaska Native Claims Settlement Act, § 4(a, c), 43 U.S.C.A. § 1603(a, c).

11. Public Lands ≈3

Provision of Alaska Native Claims Settlement Act extinguishing all claims against the United States, the state and all other persons that are based on claims of aboriginal rights embraces claims beyond claims for appropriation of Indian land, which claims are ascertainable only against the United States. Alaska Native Claims Settlement Act, § 4(c), 43 U.S.C.A. § 1603(c).

12. Public Lands ≈3

Purpose of provision of Alaska Native Claims Settlement Act extinguishing all claims based on claims of aboriginal title was to avoid costly litigation and to end divisiveness between native and nonnatives in Alaska. Alaska Native Claims Settlement Act, § 4(c), 43 U.S.C.A. § 1603(c).

13. Indians ≈19

Provision of Alaska Native Claims Settlement Act extinguishing all claims against the Government and others that are based on claims of aboriginal title extinguishes trespass claims based on aboriginal title and is not limited to claims for compensation for taking of Indian land; hence, provision extinguished native claims against State of Alaska and private parties for trespass on aboriginal title lands prior to passage of Settlement Act, specifically, alleged trespass as to lands tentatively approved to the state pursuant to Statehood Act or conveyed pursuant to federal law and, encompassed bases of North Slope oil lands which the state had tentatively selected under the Statehood Act. Alaska Native Claims Settlement Act, § 4(a, c), 43 U.S.C.A. § 1603(a, c), Alaska Statehood Act, § 6, 48 U.S.C.A. preceding section 21.

14. Indians ≈19

Purpose of provision of Alaska Native Claims Settlement Act extinguishing all claims based on claims of aboriginal right, title, etc., was to eliminate indirect challenges to title, such as those asserted by way of a trespass action. Alaska Native Claims Settlement Act, § 4(c), 43 U.S.C.A. § 1603(c).

15. Public Lands ≈3

Alaska Native Claims Settlement Act is to be broadly construed to effectuate a comprehensive settlement of all native claims based on aboriginal use and occupancy of land in Alaska and to bar any litigation based on such claims. Alaska Native Claims Settlement Act, § 4(a), 43 U.S.C.A. § 1603(a).

16. Constitutional Law ≈277(1)

Public Lands ≈3

Trespass claims based on unrecognized aboriginal title are not a protected "property interest" within meaning of the Fifth Amendment; hence, provision of Alaska Native Claims Settlement Act extinguishing native claims based on alleged aboriginal occupancy, including claims against private parties for pre-Settlement Act trespasses, does no violence to the Fifth Amendment. Alaska Native Claims Settlement Act, § 4(c), 43 U.S.C.A. § 1603(c); U.S.C.A. Const. Amend. 5.

See publication Words and Phrases for other judicial constructions and definitions.

17. Constitutional Law ≈277(1)

Indians ≈10

Indian occupancy of land without government recognition of ownership is not a constitutionally protected interest and, hence, may be terminated by Congress at will without compensation; since such use and occupancy is not constitutionally protected, trespass or other claims of interference with the underlying interest likewise fall outside the scope of Fifth Amendment protection. U.S.C.A. Const. Amend. 5.

18. Constitutional Law ≈277(1)

Indians ≈10

Congress has plenary power over aboriginal use and occupancy and claims de-

rived therefrom and may extinguish such occupancy rights and derivative claims in any manner it chooses; hence, Fifth Amendment was not violated by retroactively extinguishing aboriginal title and trespass claims for pre-1971 entries on Alaska's North Slope. Alaska Native Claims Settlement Act, § 4(a, c), 43 U.S.C.A. § 1603(a, c); U.S.C.A.Const. Amend. 5.

19. Public Lands ⇌ 3

It is essential that Congress be able to extinguish aboriginal title and all claims based on such title unimpeded by constitutional restrictions so that Indian land claims and disputes generated thereby may be conclusively and finally settled. Alaska Native Claims Settlement Act, § 4(a, c), 43 U.S.C.A. § 1603(a, c); U.S.C.A.Const. Amend. 5.

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Atkinson, Conway, Young, Bell & Gagnon, Anchorage, Alaska, for defendants ATCO Housing, dba ATCO Structures, National Mechanical Contractors, Polar Oil Field Services.

Birch, Jermain, Horton & Bittner, Anchorage, Alaska, for defendant Hewitt Lounsbury & Assoc.

William V. Boggess, Fairbanks, Alaska, for defendants James A. Dalton & Assoc. and Stutzmann Eng. Assoc.

Burr, Pease & Kurtz, J. W. Sedwick, Anchorage, Alaska, for defendants Green Const. Co., Union Oil Co. of California, Alaska Geophysical, Inc. and Digicon Alaska, Inc.

Charles E. Cole, Fairbanks, Alaska, for defendants Burgess Const. Co. and Spruce Equipment Co.

Richmond & Willoughby, Anchorage, Alaska, for defendants Alaska Barge & Trans., Inc., Battelle Pacific Northwest Laboratories, General Const. Co., Goodyear Tire & Rubber Co., Pac. Inland Navigation Co., Universal Services, Inc. and Alaska General Const.

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Hagens, Smith & Brown, Anchorage, Alaska, for defendants Geophysical Service, Inc., Reading & Bates Offshore Drilling Co., Reading & Bates Oil and Gas Co. and United Geophysical Corp.

Hoge, Lekish, Cardwell, Marquez & Lawrence, Anchorage, Alaska, for defendants Sea Automotive, Inc.

Holland & Thornton, Anchorage, Alaska, for defendants Colorado Oil & Gas Corp., Era Helicopters, Inc., Forest Oil Corp., Hunt Oil Co., Marathon Oil Co., Merrie, Inc., Mobil Oil Corp., Parker Drilling Co., Phillips Petroleum Corp., Placid Oil Co., Mo-

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 ANCHORAGE, ALASKA

Cite as 435 F.Supp. 1609 (1977)

bile Pipeline Co., Socony Mobil Oil Co. and Amerasia Hess Corp.

Ely, Guess & Rudd, Anchorage, Alaska for defendants Alyeska Pipeline Serv. Co., BP Oil Corp., by Sohio Petroleum Co., Successor Evergreen Helicopters of Alaska, Inc., Kaiser Steel Corp., Michael Baker, Jr., Inc., Newmont Oil Co., Prudhoe Bay Communications, by Sohio Trans. Co., formerly Prudhoe Bay Comm., Shell Oil Co., Sohio Petroleum Co., ARCO Pipeline Co., BP Alaska Exploration, BP Alaska, Inc., Kip Pipelines, Inc. and Woodward-Lundgren Assoc.

Barry Donnellan, Anchorage, Alaska, for defendants Ramstad Const. Co.

M. P. Evans, George A. Dickson, Anchorage, Alaska for defendants S. S. Mullens, Inc., dba S. S. Mullen Const.

Faulkner, Banfield, Doogan & Holmes, Juneau, Alaska, for defendants Atlantic Refining Co., Atlantic Richfield Co., Richfield Oil Corp. and Sinclair Oil Corp.

James E. Fisher, Kenai, Alaska, for defendants Better Concrete Products Corp.

Gallagher, Crauston & Snow, Anchorage, Alaska, for defendants Sourdough Freight Lines, Inc.

Stephen S. Hart, Graham & James, Anchorage, Alaska, for defendants Nabors Alaska Drilling.

Cole, Hartig, Rhodes & Norman, Anchorage, Alaska, R. T. Robberson, Houston, Tex., for defendants Alaska Geophysical, Inc., Core Laboratories, Inc., Digicon Alaska, Inc., Dresser Industries, Inc., Lindsay & Associates, Lorac Service Corp., Madrel, dba Ray Geophysical, Occidental Petroleum, Western Geophysical Co. of America, Continental Laboratories and The Superior Oil Co.

Ralph G. Crews, Anchorage, Alaska, for defendants Gulf Oil Corp., Pan American Petroleum and Texaco, Inc.

Delaney, Wiles, Moore, Hayes & Reitman, Anchorage, Alaska, for defendants Alaska Airlines, Boatel Alaska, Inc., Eastman Oil Well Survey, Rowan Drilling Co., dba Row-

an Drilling U.S., Standard Oil Co. of Cal., Whipstock Alaska, Globe Universal Sciences, Hamilton Brothers Oil and Frontier Rock & Sand, Inc.

Robert L. Hartig, Anchorage, Alaska, Michael R. Waller, Karen A. Berndt, Houston, Tex., for defendants Digicon Alaska, Inc. and Alaskan Geophysical, Inc.

Karl S. Johnstone, Anchorage, Alaska, for defendants C. R. Lewis, Inc.

Denis R. Lazarus, Anchorage, Alaska, for defendants Olympic, Inc.

McCarrey & McCarrey, Anchorage, Alaska, for defendants Wien Air Alaska.

Philip D. Maloney, Anchorage, Alaska, for defendants Cities Service Oil Corp., Conoco, Inc., Sperry-Sun Well Surveying Co. and Sun Oil Co.

Nosek, Bradbury & Wolf, Anchorage, Alaska, for defendants Arctic Marine Freighters, Eye Construction, Inc., Mukluk Freight Lines, Inc., Oilfield Service, Inc. and Puget Sound Tug & Barge Co.

Thomas P. Owens, Jr., Owens, Riordan & Turner, Anchorage, Alaska, for defendants Atwood Enterprises, Inc. and Brinkerhoff Drilling Co.

Rice, Hoppner & Hedland, Fairbanks, Alaska, for defendants Earthmovers of Fairbanks, Inc.

Croh, Berkert & Walter, Anchorage, Alaska, for defendants Locher Construction Co., dba Locher Co., Inc. and Western Offshore Drilling & Exploration Co.

OPINION

FITZGERALD, District Judge.

The United States, acting in its own behalf and on behalf of Eskimos inhabiting the Arctic Slope of Alaska, sues the State of Alaska and one hundred forty corporations and private parties for trespass to Native land prior to the passage of the Alaska Native Claims Settlement Act.¹ The intervenor, Inupiat Community of the Arctic Slope, a recognized Eskimo tribal

1. 43 U.S.C. § 1601 et seq. Hereinafter referred to as the Settlement Act.

entity, makes similar but somewhat more extensive claims.²

The underlying theory of both the complaint and the complaint in intervention is that until the 1971 Settlement Act the Eskimos of the Arctic Slope had a right of exclusive possession to the Arctic Slope of Alaska based on use and occupancy of that region from time immemorial, or as it is sometimes termed, "aboriginal title."

The case is here on defendants' joint motion to dismiss all claims of trespass to land claimed on the basis of aboriginal title.³ The case raises important questions of law arising under the Settlement Act and federal common law regarding Indian rights. In order to fully develop the issues presented, it is necessary to review the background of the Settlement Act.

Jurisdiction over the claims of the United States is conferred by 28 U.S.C. § 1345. Jurisdiction over the claims of intervenor is based on 28 U.S.C. §§ 1331, 1362.

I. HISTORY OF ALASKA NATIVE LAND CLAIMS

The claims of the Native people to the land and resources of Alaska had been a source of potential conflict and uncertainty for over a century before Congress finally

2. More specifically, the United States claims damages for entries to land aboriginally used and occupied by the Arctic Slope Natives where: (1) the entry was unauthorized; (2) the entry and trespass were under color of the Statehood Act of 1868, 72 Stat. 339, but in violation of explicit terms contained therein, which affirmatively protected Native rights; or (3) the entry was made under federal authorization but the entry interfered with substantial and notorious Native use resulting in destruction of Native possessions, such as homes, hunting or trapping grounds, and other physical structures. Damages to the Eskimos are alleged to include the disturbance of game animals, the extraction of oil and gas, the obtaining of geophysical information of great value, and the construction of roads, buildings, airfields and other structures.

Intervenor claims damages for all entries on the North Slope prior to December 18, 1971; the value of any geologic and geophysical information obtained as a result of oil exploration on Arctic Slope land; the royalty value of grav-

undertook to settle the aboriginal claims in the late 1960's.

The Treaty of Cession⁴ by which the United States purchased Alaska from Russia in 1867 did not address the property rights of the Native inhabitants. It provided that the Natives would be subject to such laws as the United States might adopt with respect to aboriginal tribes.

The first statute to mention the land rights of Alaska Natives was the Organic Act of 1884⁵ which provided for a civil government and extended the mining laws of the United States to Alaska. Section 8 of the Organic Act provided:

... that the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress

Congress proceeded to open Alaska to settlement and development by extending the general land laws to Alaska. The Act of March 3, 1891 authorized the establishment of townsites and conveyances of town lots to individual occupants.⁶ In 1898 Congress extended the homestead laws to Alaska⁷ and in 1900 the mining laws of the United States to Alaska in the second Or-

der or other mineral resources obtained as a result of trespass on the Arctic Slope; damages for destruction of wildlife; damages for theft or disturbance of chattels; and damages for injury to real property and structures.

3. All claims which may lie for injury to personal property or real property individually owned, as opposed to property claimed by right of aboriginal use and occupancy, are excepted from the motion to dismiss. Such claims, however, are not adequately stated by the complaints filed in this case.

4. Treaty of March 30, 1867, 15 Stat. 539.

5. Act of May 17, 1884, Ch. 53, 23 Stat. 24.

6. Act of March 3, 1891, Ch. 551, 26 Stat. 1055, 43 U.S.C. § 732.

7. Act of May 14, 1900, Ch. 259, 30 Stat. 409, 43 U.S.C. § 270.

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ganic Act.⁸ In 1914 Congress enacted the Alaska Coal Lands Act, directing the President to reserve potential coal-bearing lands and issue leases for those lands.⁹ The Mineral Leasing Act enacted in 1920¹⁰ authorized the Secretary of the Interior to lease lands owned by the United States which contain deposits of coal, oil and other minerals. Some of these enactments contained provisions exempting or protecting from disposition lands actually occupied by Natives. The second Organic Act, for example, provided that Natives "shall not be disturbed in the possession of any lands now actually in their use and occupancy."¹¹ However, other statutes, such as the Mineral Leasing Act, did not contain any provisions respecting Native occupancy.

Under these laws, appropriate administrative officials authorized entries on, and disposition of, Alaska lands without regard to aboriginal title claims of Natives.

In the Alaska Native Allotment Act,¹¹ Congress for the first time provided a means by which individual Alaska Natives could obtain legal title to land they occupied. The Act provided for the allotment of homesteads of up to 160 acres of non-mineral land. However, only 80 allotments, most of which were in southeastern Alaska, were issued under the Act during the first 54 years after its passage. Knowledge of the provisions of the Allotment Act and the means to apply for lands under its provisions were not available to most Alaska Natives.¹²

Under a 1926 Act, Congress extended the provisions of the townsite laws to Alaska Natives, providing for the patenting of lots within Native townsites to the occupants. Native townsite residents received a restricted deed, inalienable except by permission of the townsite trustee.¹³

Significantly, in Alaska, unlike the Lower 48, there were never treaties between the United States and Alaska Native groups designating lands which Natives were entitled to occupy or defining their rights to the taking of fish and game. Congress created only one reservation in Alaska, an 86,000 acre reservation in southeastern Alaska for the Metlakatla Indians.¹⁴ Between 1914 and 1917 the President made various Executive Order withdrawals of Alaskan land for the benefit of Native groups.¹⁵ In 1936 the Secretary of the Interior was authorized to designate reservations in Alaska upon vote of the adult Native residents within the proposed reservation.¹⁶ Only six such reservations were created, none of which were on the North Slope. Alaskans, both Native and non-Native, opposed creation of reservations on the grounds that reservations were socially divisive and tended to perpetuate a wardship rather than equality for the Natives. Four villages voted down proposed reservations and one was declared invalid by the Territorial Court. *United States v. Libby, McNeill & Libby*, 107 F.Supp. 697, 14 Alaska 37 (1952).¹⁷

8. Act of June 6, 1906, Ch. 786, 34 Stat. 321, as amended, 30 U.S.C. § 49(a).

9. Act of Oct. 20, 1914, Ch. 330, 38 Stat. 741.

10. Act of Feb. 25, 1920, Ch. 85, 41 Stat. 437, as amended, 30 U.S.C. § 181 et seq.

11. Act of May 17, 1906, Ch. 2469, 34 Stat. 197.

12. Senate Report No. 92-405, 92nd Congress, 1st Session at 91 (1971).

13. Act of Mar. 25, 1926, Ch. 379, 44 Stat. 629, 43 U.S.C. § 731.

14. Act of March 3, 1891, Ch. 561, § 15, 26 Stat. 1101, 25 U.S.C. § 495.

15. E.g., Ft. Yukon, Executive Order No. 1896 (Feb. 24, 1914); Klukwan, Executive Order No.

2227 (Aug. 2, 1915); Chilkat, Executive Order No. 2228 (Aug. 2, 1915); Yendistucky, Executive Order No. 2388 (May 25, 1915); Norton Bay, Executive Order No. 2508 (Jan. 3, 1917); Akiak, Executive Order No. 2757 (Nov. 22, 1917); Mountain Village, Executive Order No. 2757 (Nov. 22, 1917); Tatulek, Executive Order No. 2757 (Nov. 22, 1917).

16. Act of May 1, 1936, Ch. 254, § 2, 49 Stat. 1250, 25 U.S.C. § 496.

17. Federal Field Committee for Development Planning in Alaska, *Alaska Natives and the Land*, Chap. V. See also, E. Gruening, *The State of Alaska*, Ch. 25, pp. 365-381 for an account of the opposition of Alaskans to the Department of Interior's plan to create Indian reservations throughout Alaska.

In 1935 Congress enacted a jurisdictional statute which allowed the Tlingit and Haida Indians of southeastern Alaska to bring suit in the Court of Claims for compensation for land and tribal property rights expropriated by the United States and for the failure by the United States to protect those property rights from usurpation by non-Natives.¹⁸ However, it took over 35 years for the Tlingits and Haidas to receive compensation.

In 1959 the Court of Claims held that the Tlingits and Haidas had established title to six areas.¹⁹ Judgment for \$7,546,053.80 was entered in 1968. Money was not appropriated to pay the judgment until 1970.

Nevertheless, the Tlingit and Haida Indians fared better than the Tee-Hit-Tons, who failed to get any compensation whatsoever when they went to court without the aid of a jurisdictional statute. The Supreme Court held that unrecognized aboriginal title was not a property interest protected by the Fifth Amendment from government taking without compensation. *Tee-Hit-Ton Indians v. United States*, 348 U.S. 272, 75 S.Ct. 313, 99 L.Ed. 314 (1955).

When the *Tee-Hit-Ton* decision was handed down, Congress was deliberating the question of statehood for Alaska. However, statehood was not approved until 1958 when Congress enacted the Alaska Statehood Act.²⁰

The confrontation of Native and non-Native over ownership and use of the land accelerated after statehood. Section 6 of the Statehood Act authorized the State to select 102,500,000 acres from public lands that were "vacant, unappropriated, and unreserved at the time of their selection."²¹ The intent of Congress was, of course, to provide the new state with a solid economic foundation.²² State land selections required the approval of the Secretary of the Interior who was the official with authority to patent selected lands to the State.²³ Section 6(g) authorized the State to execute conditional leases and make conditional sales of selected lands following tentative approval but prior to issuance of the final patent.²⁴

The Statehood Act further provided that the State of Alaska would receive 90% of the revenues derived by the United States from coal and mineral leases of the lands retained by the United States in Alaska.²⁵

Significantly, the Statehood Act also contained a provision protecting Native rights. Section 4 of the Act provided that the State disclaimed any right or title to "any lands or other property (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts . . . or is held by the United States in trust for said Natives . . ." ²⁶

18. Act of June 13, 1935, Ch. 275 § 2, 49 Stat. 388.

19. *Tlingit and Haida Indians of Alaska v. United States*, 177 F.Supp. 452, 147 Cl.Ct. 315 (1959).

20. Act of July 7, 1958, Pub.L. No. 85-508, 72 Stat. 339, as amended, 73 Stat. 141 (hereinafter Statehood Act). 48 U.S.C. prec. 21 note.

21. Sections 6(a) and 6(b) of the Statehood Act, 72 Stat. 339, 340.

22. See, U.S. Code Congressional and Administrative News, 85th Cong., 2d Sess. (1958) Legislative History, p. 2933.

23. Sections 6(a) and 6(g), 72 Stat. 339, 340-341.

24. 72 Stat. 339, 342.

25. 72 Stat. 339, Section 25.

26. It is important to read the full text of Section 4 of the Statehood Act to understand how Section 4, when read in conjunction with the grant to the State in Section 6, is subject to differing interpretations by the parties herein. Section 4, as amended in 1959, 73 Stat. 141, provides:

As a compact with the United States said State and its people do agree and declare that they forever disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or is subject to disposition by the United States, and to any lands or other property (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts (hereinafter called natives) or is held by the United States in trust for said natives; that if such lands or other property (including fishing rights), the right

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In the 1960's the State proceeded to select land as provided in Section 6 of the Statehood Act.

In 1964 and 1965 the State selected, and the Secretary of the Interior tentatively approved, approximately 1,650,000 acres of land on the Arctic Slope, a region in which the existence of large oil deposits was suspected.²⁷ Reports of oil deposits in Prudhoe Bay, one of the selected areas, were confirmed in 1968. In 1969 the State conducted sales of oil and gas leases for tentatively approved Arctic Slope lands. The lease sale was vigorously protested by Alaska Natives. Nevertheless, oil companies, including a number of the defendants in this lawsuit, paid over 900 million dollars to acquire oil and gas leases.

Meanwhile, the Secretary of the Interior, in a series of public land orders issued between 1958 and 1965, had authorized locations and entries under the mining laws and leases pursuant to the Mineral Leasing Act on various areas of the Arctic Slope. Pursuant to these land orders and federal leases, numerous private parties including many of the present defendants partici-

of title to which may be held by said natives or is held by the United States in trust for said natives, shall be and remain under the absolute jurisdiction and control of the United States until disposed of under its authority except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restrictions on alienation. *Provided*, That nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by the laws of the United States applicable thereto, and nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any law applicable thereto authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability or effect of any law to any such claim shall be unaffected by anything in this Act.

And provided further, That no taxes shall be imposed by said State upon any lands or other property now owned or hereafter acquired by the United States or which, as heretofore set forth, may belong to said natives, except to such extent as the Congress has prescribed or may hereafter pre-

parted in oil and gas explorations on the Slope.

Certain initial State land selections were protested by the Bureau of Land Management on behalf of Native villages. As State selections continued, Alaska Natives began organizing themselves into groups and associations and the number of Native protests and land claims mounted steadily. The Alaska Federation of Natives was organized in 1966, and regional Native associations were organized throughout Alaska. By April, 1968, forty claims covering 256,000,000 acres, approximately 80% of the State, had been filed.²⁸ The North Slope Native Association had filed a claim to virtually the entire North Slope.²⁹ In short, most of the State land area, and virtually all of the commercially valuable land, were subject to Native protests.

Partly in response to the mounting protests, the Secretary of the Interior instituted a land freeze policy whereby federal patenting and approval of State selections and other applications for public lands were suspended pending a legislative settlement of the controversy.³⁰

scribe, and except when held by individual natives in fee without restrictions on alienation.

27. Federal Field Committee, *Alaska Natives and the Land*, 456-7 (1968). During the 90th Congress the Senate Committee on Interior and Insular Affairs commissioned the Federal Field Committee for Development Planning in Alaska to prepare a report concerning the Native land claims. The report *Alaska Natives and the Land* is an important document in the legislative history of the Settlement Act. Senate Report No. 92-405, 92d Cong., 1st Sess. (1971), 74.

28. *Alaska Natives and the Land*, 442.

29. *Id.* at 456.

30. The land freeze was made official in Public Land Order No. 4582, issued January 12, 1969, which reads as follows:

Subject to valid existing rights, and subject to the conditions hereinafter set forth, all public lands in Alaska which are unreserved or which would otherwise become unreserved prior to the expiration of this order, are hereby withdrawn from all forms of appropriation and disposition under the public

Because the freeze was thought to be a serious threat to Alaska's economy, the State attempted, unsuccessfully, to obtain a court order requiring the Secretary of the Interior to approve pending State selections and patent others which were subject to Native claims. *Alaska v. Udall*, 420 F.2d 938 (9th Cir. 1969), cert. denied, 397 U.S. 1076, 90 S.Ct. 1522, 25 L.Ed.2d 811 (1970).³¹ The State then turned to Congress for a solution.

Native leaders by then had also concluded that they should petition Congress for a prompt legislative settlement of their land claims. The past experience of the Tlingits and Haidas and the Tee-Hit-Tons showed that the alternative of taking the claims to court must inevitably lead to long delay.³² Beginning in 1967, the Alaska Federation of Natives caused bills to be introduced in every session of Congress and lobbied for their passage.³³ In December, 1971, they succeeded in obtaining a legislative settlement that included substantial grants of land in addition to monetary compensation for the extinguishment of Native claims.

The express purpose of the Settlement Act, as set forth in Section 2, the Declaration of Policy, was to meet the "immediate need for a fair and just settlement of all claims by Natives and Native groups of

Alaska, based on aboriginal land claims."³⁴ Congress found that a settlement had to be accomplished "rapidly, with certainty, [and] without litigation . . ."³⁵

Section 4 of the Settlement Act contains the declaration of settlement.³⁶ The meaning and scope of the extinguishment section is disputed by the parties to this lawsuit and is the controlling question of law now before the court.

In conjunction with these extinguishments, Section 6 of the Act provides for a cash settlement of \$932,500,000 to be paid over a period of years. Of that sum, \$462,500,000, or roughly half, is to be paid from the federal treasury.³⁷ The remainder will be paid from the revenues derived from disposing of the leasable minerals on public lands in Alaska, including lands tentatively approved to the State and lands which the State will select in the future. (Section 9)³⁸ In addition to the monetary grant, the Act grants the Alaska Natives fee title to more than 40 million acres of lands, to be selected by the Native villages and regional corporations from lands in Alaska withdrawn for that purpose. (Section 12)³⁹ All future revenues to be derived from the land patented to the Natives will, of course, be the property of the Native corporations.⁴⁰ Under the Act, individual Natives are al-

land laws (except locations for metalliferous minerals), including selection by the State of Alaska pursuant to the Alaska Statehood Act (72 Stat. 339), and from leasing under the Mineral Leasing Act of February 25, 1920, 41 Stat. 437, 30 U.S.C. 181 et seq., as amended, and reserved under the jurisdiction of the Secretary of the Interior for the determination and protection of the rights of the Native Aleuts, Eskimos and Indians of Alaska. The withdrawal and reservation created by this order shall expire at 12 p. m. (noon) A.S.T., December 31, 1970.

31. The district court granted the State summary judgment, ruling that as a matter of law the land in question was "vacant, unappropriated and unreserved" and therefore open to State selection under the Statehood Act. The Ninth Circuit reversed on the ground that "essential questions of fact existed as to whether the lands selected by the State were not (1) vacant or were occupied by the Natives; (2) the claims of the Natives were not extinguished by the Statehood Act; and (3) the lands were not reserved for the Indians." 435 F.2d 1018, 1020 (9th Cir. 1970).

32. See Arnold, *Alaska Native Land Claims*, (1976) (published by Alaska Native Foundation); E. Greening, *The State of Alaska* (1968 ed.) at 541.

33. See Senate Report No. 91-925, 91st Cong., 2d Sess. 1970, 90-99 for a detailed summary of the bills considered by the 10th and 91st Congresses.

34. 43 U.S.C. § 1601(a).

35. 43 U.S.C. § 1601(b).

36. 43 U.S.C. § 1603.

37. 43 U.S.C. § 1615.

38. 43 U.S.C. § 1618.

39. 43 U.S.C. § 1611.

40. 43 U.S.C. § 1620.

lowed to pursue pending allotment applications.⁴¹

Any summary of the background to the Settlement Act and the instant lawsuit would not be complete without mention of *Edwardsen v. Morton*, 373 F.Supp. 1359 (D.D.C.1973). That case was filed October, 1971, in the United States District Court for the District of Columbia while Congress was in the final stages of consideration of the terms of the Settlement Act. The plaintiffs included Charles Edwardsen, Jr., Executive Director of the Arctic Slope Native Association, the Inupiat Community of the Arctic Slope and several Native villages and individual Eskimos of the Arctic Slope. The named defendants were the Secretary of the Interior and subordinate officials. The complaint alleged that the federal officers had unlawfully transferred and permitted trespass to Arctic Slope lands claimed and occupied by Inupiat Eskimos under aboriginal title. Plaintiffs alleged that all State land selections on the North Slope and tentative approvals thereof were illegal and sought declaratory and injunctive relief to this effect. Plaintiffs also sought an order requiring the Secretary to account to the plaintiffs for all monies received by the State of Alaska, including the \$912 million received by the State in the September, 1969, Prudhoe Bay oil and gas lease sale, and other third persons as a result of the tentative approvals. The complaint was later amended to state a claim for a money judgment against the Secretary.

After passage of the Settlement Act, the defendants in *Edwardsen* moved for summary judgment on the grounds that the Settlement Act barred all of plaintiffs' claims. The district court granted summary judgment for the federal defendants on the claims to the tentatively approved State lands, holding that the Settlement Act validated all prior tentatively approved State

selections. However, the district court denied summary judgment as to the accounting and damage claims, holding that the Settlement Act did not extinguish tort claims that accrued prior to enactment of the Settlement Act.

No appeal was taken from the decision of the district court in *Edwardsen*. Instead, the federal defendants entered into a stipulation with the plaintiffs which required federal officers to conduct an investigation of plaintiffs' trespass claims and thereafter to recommend that the Attorney General institute damage actions on the Natives' behalf.

This lawsuit followed.

II. PRELIMINARY ISSUES

The main argument in support of the motion to dismiss is that the Settlement Act conclusively extinguished, and therefore bars, all claims based on aboriginal use or occupancy, including claims of past trespass to lands claimed by aboriginal title.

However, defendants also raise several preliminary issues by arguing that the aboriginal title claimed by the Arctic North Slope Eskimos was extinguished even prior to passage of the Settlement Act by operation of various federal statutes concerning disposition and use of federal land in Alaska, including the Alaska Statehood Act.

First, defendants argue that the Treaty of Cession extinguished the aboriginal title of all Native peoples in Alaska.⁴²

Second, defendants contend that between cession and statehood the federal government exercised "complete dominion" over Alaska lands in a manner adverse to the existence of a Native right of exclusive possession and thereby extinguished all aboriginal title.⁴³

Third, relying on the Supreme Court in *Organized Village of Kake v. Egan*, 369

41. 43 U.S.C. § 1613(b)(5), § 1617(a).

42. In *Miller v. United States*, 159 F.2d 997, 41 Alaska 285 (9th Cir. 1947), a condemnation action brought by the United States to obtain unencumbered fee title to tidelands in Juneau for the purpose of building a wharf, the Ninth Circuit held that no communal claim of aboriginal title survived the Treaty of Cession. How-

ever, this holding was impliedly overruled by the Supreme Court in *Tee Hit-Ton Indians v. United States*, 348 U.S. 272, 75 S.Ct. 313, 99 L.Ed. 314 (1955).

43. In *United States v. Santa Fe Pac. R.R.*, 314 U.S. 339, 62 S.Ct. 245, 86 L.Ed. 260 (1941), the Supreme Court stated that the right of the United States to extinguish aboriginal title may

U.S. 60, 82 S.Ct. 562, 7 L.Ed.2d 573 (1962),⁴⁴ defendants argue the Statehood Act authorized the State to select and obtain clear title to lands claimed under aboriginal title, thereby extinguishing inconsistent aboriginal title to the selected lands, but preserved the Natives' right to seek compensation from the federal government for the lands granted to the State. Plaintiff and intervenor, on the other hand, contend that the intent of Congress in the Statehood Act was to preserve the status quo of Native occupancy, not to extinguish the right of aboriginal occupancy; hence State selection was limited to lands not occupied or claimed by Natives. Plaintiff and intervenor concede that under this interpretation of the Statehood Act, the State would likely end up with substantially less than the allotted

103 million acres in view of the fact that Alaska Natives claimed aboriginal title by virtue of use and occupancy to almost all of the land in Alaska.

[1-3] These contentions raise difficult issues. To determine whether, and to what extent, aboriginal title to the Arctic Slope may have been legally extinguished prior to passage of the Settlement Act would require close examination of almost every federal statute and federal government action relating to use of Arctic Slope lands between 1867 and 1971 in order to discern if there was some clear manifestation of Congressional intent to extinguish aboriginal title. *Unit v. States v. Gemmill*, 535 F.2d 1145 (9th Cir. 1976).⁴⁵

[4] The Settlement Act, however, makes such an undertaking unnecessary. The in-

terests with respect to Native land, not its governmental and political interests. 369 U.S. at 68-69, 82 S.Ct. at 562.

be exercised "by treaty, by the sword, by purchase, by the exercise of complete dominion adverse to the right of occupancy, or otherwise . . ." 314 U.S. at 347, 62 S.Ct. at 252. The Ninth Circuit recently applied the "complete dominion" theory in *United States v. Gemmill*, 535 F.2d 1145 (9th Cir. 1976). In *Gemmill*, the court reviewed a "century-long course of conduct" to conclude that a tribe's aboriginal title had been extinguished *de jure* even though any one of the specific federal actions, "examined in isolation, may not provide an unequivocal answer to the question of extinguishment." 535 F.2d at 1149.

44. In the *Kate* opinion Justice Frankfurter, relying on the early legislative history of the Section 6 disclaimer provision of the Alaska Statehood Act, stated:

It was understood that the disclaimer provision left the State free to choose Indian "property" if it desired, but that such a taking would leave unimpaired the Indians' right to sue the United States for any compensation that might later be established to be due. 369 U.S. at 61-66, 82 S.Ct. at 566.

However, *Kate* is not controlling authority for the instant case because it did not resolve the issue of whether the State could select Native lands. Instead, the issue before the Court was whether the restrictions of federal jurisdiction over Native lands by the United States and the concomitant disclaimer by the State in Section 4 of the Statehood Act barred the State from applying its own state property acquisition law to Indian lands. The Court held the State could exercise its police powers over Indian lands so long as the acquisition of title by the state government did not constitute a taking of property.

45. In *Gemmill*, the Ninth Circuit held that extinguishment of aboriginal title occurs when the United States acts in a manner which manifests an intention to extinguish, regardless of the means or propriety of the action. "The relevant question is whether the governmental action was intended to be a revocation of Indian occupancy rights." *Gemmill*, supra, 535 F.2d at 1148.

Contrary to intervenor's contentions, aboriginal title, as opposed to Indian title recognized by treaty or reservation, is legally extinguishable when the United States makes an otherwise lawful conveyance of land pursuant to federal statute. Congressionally authorized conveyance of lands from the public domain demonstrates the requisite intent to extinguish the Indian right of use and occupancy to those lands. That, as the United States acknowledged, when the Secretary of the Interior issued a patent to a homesteader in Alaska, aboriginal title was extinguished with respect to the patented land. However, since the United States retained title to almost all of the Arctic Slope during the period in question, extinguishment of aboriginal title by conveyance is not at issue here. Whether homesteads approved at State land offices were legally extinguished aboriginal title presents a more difficult question. If the Statehood Act can be read to preserve aboriginal occupancy rights, Congress would have intended that a Congressional act would have extinguished aboriginal title.

intent of Congress in the Settlement Act was to settle the claims of Alaska Natives and to compensate them without deciding the difficult and disputed question of the existence and extent of aboriginal title to Alaska lands. The Act's Declaration of Settlement reads: "All aboriginal titles, if any, are hereby extinguished." (emphasis added)⁴⁶ Congress was aware that claims or aboriginal title raised difficult questions of law and fact. The difficulty was in large part due to the long delay before Congress directly confronted settlement claims based on aboriginal title. The Settlement Act was the first and only legislative action in which Congress considered and undertook to resolve the claims of Alaska Natives. The Treaty of Cession and Congressional legislation, including the Statehood Act, which preceded the Settlement Act, incidentally affected issues relating to Native land claims but did not purport to resolve them. It is appropriate then to look directly to the Settlement Act, rather than to previous legislation, to discern Congressional intent with respect to settlement and extinguishment of claims based on aboriginal title.

[5] The legislative history of the Statehood Act fails to clarify Congressional intent with respect to Native use and occupancy.⁴⁷ In fact, there is very little reference to Native land claims in the legislative history on the Statehood Act. This is so

because Congress was principally concerned with achieving statehood for Alaska, not with settlement of Native land claims. Given the difficulty of winning Congressional approval for Alaska statehood,⁴⁸ Congress undertook to bypass, rather than to resolve the complex and difficult questions arising out of Native claims.⁴⁹

Nevertheless, the Statehood Act is important insofar as it is a significant part of the background of the Settlement Act and contributes to an understanding of legislative intent in the Settlement Act. As noted, the conflicting claims by the State of Alaska and by Alaska Natives to lands selected by the State pursuant to the Statehood Act and the land freeze imposed by the Secretary of the Interior precipitated demands on Congress to enact legislation bringing about settlement of Native land claims.⁵⁰ As will be discussed in the following section, Congress specifically addressed and resolved the problem of the conflicting State and Native claims to tentatively approved lands in subsection 4(a) of the Settlement Act.

To summarize, I decline to decide whether aboriginal title to the Arctic North Slope was extinguished in whole or in part by the Treaty of Cession, or by the exercise of complete dominion over Alaska lands between cession and statehood, or by operation of the Statehood Act. The decision in this case rests on the Settlement Act since

46. 43 U.S.C. § 1603.

47. Defendants' interpretation of what Congress intended in the Statehood Act is more persuasive since that construction gives effect to an important purpose of the Statehood Act to insure that the new state would be economically viable. The construction urged by plaintiff and intervenor would defeat that purpose since the State would be virtually without land or resources for its support. However, given the patent ambiguity in the terms of the Statehood Act itself and the absence of clarifying legislative history, I decline to rule that the Statehood Act required dismissal of the claims against the State and its leaseholders.

48. See E. Gruening, *The State of Alaska*, supra, Chap. 28 for a detailed account of the political obstacles in the path of Alaska statehood.

49. Senate Report 92-405 expresses a similar conclusion in explaining the background of the Alaska Native land claims. The Report concludes that Section 4 of the Statehood Act was intended to maintain the "status quo with respect to Native use, occupancy, and title to lands in Alaska until Congress could act upon these questions." The Report further states that Congress "has reserved to itself the full power to define, confirm, deny, or extinguish Native title, and with minor exceptions, Congress has so far declined to do so." S.Rep. No. 92-405 at 75-76, 92nd Cong., 1st Sess. (1971).

50. See Senate Report 92-405, 92nd Congress, 1st Session, 94-95, (1971), for the Senate Committee's account of the conflict between the State and Alaska Natives and between the State and the United States which necessitated the Settlement Act.

that legislation was specifically directed to final resolution and settlement of Native land claims. Nor is it necessary to look to other statutes to discern Congressional intent to extinguish Native land claims since I conclude, for reasons to follow, that Section 4 of the Settlement Act unequivocally extinguished claims based on aboriginal title which are asserted in this lawsuit. Accordingly, for the purposes of the motion to dismiss, it is assumed without so deciding, that aboriginal title to the Arctic Slope was not legally extinguished prior to the Settlement Act.

III. CONGRESSIONAL INTENT IN SECTION 4 OF THE SETTLEMENT ACT

The pivot of this case is Section 4 of the Alaska Native Claims Settlement Act, the extinguishment provision. Section 4 of the Act, 43 U.S.C. § 1603, provides:

(a) All prior conveyance of public land and water areas in Alaska, or any interest therein, pursuant to Federal law, and all tentative approvals pursuant to section 6(g) of the Alaska Statehood Act, shall be regarded as an extinguishment of the aboriginal title thereto, if any.

(b) All aboriginal titles, if any, and claims of aboriginal title in Alaska based on use and occupancy, including submerged land underneath all water areas, both inland and offshore, and including any aboriginal hunting or fishing rights that may exist, are hereby extinguished.

(c) All claims against the United States, the State, and all other persons that are based on claims of aboriginal right, title, use, or occupancy of land or water areas in Alaska, or that are based on any statute or treaty of the United States relating to Native use and occupancy, or that are based on the laws of any other nation, including any such claims that are pending before any Federal or state court or the Indian Claims Commission, are hereby extinguished.

Nothing in this section shall be construed to affect the validity of any conveyance or approval of State land selections made under the Statehood Act, but to dispel any doubt that aboriginal title to such lands was extinguished at the time of tentative approval or conveyance.

by extinguishing, as of December 18, 1971, any and all aboriginal title in Alaska. After that date, no Native group had aboriginal title or could claim aboriginal title to any land in Alaska.

[6] Contentions as to interpretation and construction of subsection 4(a), however, differ sharply. According to plaintiffs and intervenors, 4(a) validated as of December 18, 1971, prior federal conveyances and tentative approvals of State land selections which were void when actually made. According to this interpretation, the State leases previously issued to various oil companies were not valid and all activities on lands covered by such leases were trespasses until the effective date of the Settlement Act.

Defendants, by contrast, contend that 4(a) validates the prior federal conveyances, including tentative approvals of State land selections, and operated to extinguish aboriginal title as of the date of the prior conveyance.

On examination of the language of the statute, the circumstances surrounding the enactment, and the pertinent legislative history, I conclude that the unmistakable intent of subsection 4(a) is not only to validate prior conveyances of public land in Alaska, including tentative approvals of State land selections under the Statehood Act, but to dispel any doubt that aboriginal title to such lands was extinguished at the time of tentative approval or conveyance.

The language of 4(a) tends to refute the contention that the provision was intended merely to recognize existing titles and leases as of the date of the Settlement Act without retroactively extinguishing aboriginal title. Instead of merely stating that prior conveyances are hereby validated, 4(a) specifically provides:

(a) all prior conveyances of public land and all tentative approvals shall be regarded as an extinguishment of the aboriginal title thereto, if any. (emphasis added)

The choice of the words "regarded as" and "extinguishment" clearly indicates that

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S. 35 printed in Sen. Report No. 92-405, 92nd Congress, 1st Session at p. 2.⁵¹

Although this language was deleted from the Declaration of Policy when the House-Senate Conference Committee adopted the form of the House Bill in lieu of the Senate version, the change in wording does not indicate that Congress changed its belief that past conveyances effected a taking of aboriginal title.

[8] Thus, the legislative history shows that Congress viewed previous federal conveyances of lands claimed by Alaska Natives as past takings of aboriginal title and that the Settlement Act was intended to compensate the Natives for these past appropriations as well as for the extinguishment of any remaining aboriginal land rights. The legislative history squarely contradicts the construction of Section 4 urged by the United States and the Inupiat Community.

Moreover, the circumstances surrounding the enactment of the Settlement Act support the conclusion that Congress intended to make the extinguishment of aboriginal title relate back to the date of tentative approval of State land selections. Native claims pending at the time the Settlement Act was passed challenged not only the State's title to the tentatively approved lands (and, therefore, questioned the validity of the oil leases executed by the State) but also raised a question as to the State's right to the more than \$900 million which the State had received from the September, 1969, oil lease sale. The legislative record shows that Congress was well aware of the controversy:

51. Virtually identical provisions were contained in S. 1830 and its counterpart H.R. 10193, bills considered in 1969-70 by the 91st Congress. S. 1830 was passed by the Senate but the House failed to take action on it so S. 1830 was reintroduced in the 92nd Congress as S. 35.

The early bills introduced in 1967-68 in the 90th Congress authorized Alaska Natives to bring suit in the court of claims for compensation for lands taken. For example, the original proposal of the Alaska Federation of Natives to the 90th Congress, S. 2020, provided jurisdiction in the court of claims to award compensation at fair market value at the time of taking for all aboriginal title lands which had been

The fact that unresolved Native claims have been made to most of the lands of Alaska has halted both federal mineral leasing and the transfer of lands selected by the State under the Statehood Act. Some contend that the Native land claims may also cast a cloud over the State's title to mineral revenues it has already received. . . . S.Rep. 92-405 at 73.

Congress addressed the problem in subsection 4(a). By providing that tentative approvals of State land selections extinguished any aboriginal title thereto, Congress affirmed the Secretary's authority to tentatively approve the State land selections pursuant to the Statehood Act and resolved all questions as to the validity of the State's right to the oil lease proceeds. Intervenor's interpretation of 4(a) as merely validating the State's title as of December 21, 1971, leaves unresolved the State's right to revenues received before December 21, 1971.

It is incomprehensible that Congress would fail to resolve in this legislation a question as important as the State's right to the more than \$900 million in revenues derived from the 1969 sale of oil leases on State selected land in Prudhoe Bay.

Moreover, it is inconsistent with the fact that the Settlement Act requires the State to contribute a portion of its oil and mineral revenues to the Settlement fund. Under Section 9 of the Settlement Act, the Natives have the right to receive \$500 million in revenues to be derived from mineral leases on public lands in Alaska, including lands tentatively approved to the State or selected by the State.⁵² Thus, Congress has

appropriated and to grant the Natives title to all aboriginal lands to which title had not previously been conveyed to third parties by the United States. No action was taken by either the House or the Senate Interior Committees and the bills were not reintroduced in the 91st Congress. See S.Rep.No.91-925, p. 91-94, for a detailed summary of the bills considered by the 90th Congress.

52. Section 9 of the Settlement Act, 43 U.S.C. § 1608, provides in pertinent part:

Revenues Shalag

(a) The proceeds of this section shall apply to the payment of the \$500,000,000 to dispo-

Handwritten note: "Alaska Superior Court" written vertically on the left margin.

already determined that the State must pay a certain amount of its mineral revenues towards settlement of Native claims. The effect of the claims asserted against the State in this lawsuit would be to require the State to pay not only its designated share of the settlement but additionally to account for all benefits received from tentatively selected Arctic Slope land prior to the Settlement Act.

[9] In short, the circumstances surrounding enactment of the Settlement Act and the legislative history confirm that 4(a) means exactly what it says—prior conveyances of land from the federal domain and tentative approvals of State land selections extinguished any aboriginal title to the selected or transferred lands. Subsection 4(a) thereby eliminates any basis for Native claims relating to pre-Settlement Act entries on land tentatively approved to the State or previously conveyed to private parties.

Subsection 4(a) so construed requires dismissal of claims for entries under State leases pursuant to subsection 6(g) of the Statehood Act or entries pursuant to valid

federal leases or conveyances. The majority of the claims are in this category. However, plaintiffs additionally assert damage claims for unauthorized entries on the North Slope. These remaining claims draw subsection 4(e) of the Settlement Act into contention.

Subsection 4(e) extinguishes:

All claims against the United States, the State, and all other persons that are based on claims of aboriginal right, title, use, or occupancy of land or water areas in Alaska, . . .

Plaintiff and intervenor contend that the phrase "claims based on claims of aboriginal right . . ." means claims for compensation for taking Indian land, not trespass claims. It is argued that Congress did not intend to extinguish the trespass claims asserted in this lawsuit.

[10] The language of subsection 4(e) is clear and unequivocal. It explicitly extinguishes *all* claims that are based on claims of aboriginal occupancy. Claims of post-trespass to lands claimed by reason of aboriginal title require as an essential element

and tentatively approved, shall reserve for the benefit of the Natives, and for payment into the Alaska Native Fund, (1) a royalty of 2 per centum upon the gross value (as such gross value is determined for royalty purposes under any disposition by the State) of the minerals thereafter produced or removed from such lands, and (2) 2 per centum of all revenues thereafter derived from the State from rentals and bonuses from the disposition of such minerals.

(b) With respect to conditional leases and sales of minerals heretofore or hereafter made pursuant to section 6(g) of the Alaska Statehood Act, and with respect to mineral leases of the United States that are or may be subsumed by the State under section 6(h) of the Alaska Statehood Act, until such time as the provisions of subsection (c) become operative the State shall pay into the Alaska Native Fund from the royalties, rentals, and bonuses hereafter received by the State (1) a royalty of 2 per centum upon the gross value (as such gross value is determined for royalty purposes under such leases or sales) of such minerals produced or removed from such lands, and (2) 2 per centum of all rentals and bonuses under such leases or sales, excluding bonuses received by the State at the September 1963 sale of minerals from tentatively approved lands and excluding rentals received pursuant to such sale before the date of enactment of this Act. Such payment shall be made within sixty days from the date the revenues are received by the State.

(c) Each patent hereafter issued to the State under the Alaska Statehood Act, including a patent of lands heretofore selected

(d) All bonuses, rentals, and royalties received by the United States after the date of enactment of this Act from the disposition by it of such minerals in public lands in Alaska shall be distributed as provided in the Alaska Statehood Act, except that prior to calculating the shares of the State and the United States as set forth in such Act, (1) a royalty of 2 per centum upon the gross value of such minerals produced (as such gross value is determined for royalty purposes under the sale or lease), and (2) 2 per centum of all rentals and bonuses shall be deducted and paid into the Alaska Native Fund. The respective shares of the State and the United States shall be calculated on the remaining balance.

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of proof a showing of aboriginal use and occupancy at some time in the past. Such trespass claims are claims "based on claims of aboriginal occupancy" and fall within the scope of the plain language of subsection 4(c).⁵³

[11] Since subsection 4(c) specifically refers to claims against the State and all other persons, it plainly embraces claims beyond claims for appropriation of Indian land which are assertable only against the United States.

Given the plain and unambiguous meaning of the language of subsection 4(c), intervenor resorts to the legislative history in an effort to show that Congress did not intend in subsection 4(c) to extinguish trespass claims.

[12] First, intervenor argues that the purpose of the Settlement Act was to clear title to Alaska land in order to permit development to proceed. Given this purpose, it is argued that Congress was not concerned with extinguishing damage claims for past trespasses because such trespass claims do not challenge present title. Certainly, the Settlement Act was intended to

remove the cloud on Alaska land titles but that is not its sole purpose. The legislative history demonstrates that the Congressional concern included avoiding costly litigation and ending divisiveness between Native and non-Native in Alaska. If Congress had simply intended to eliminate clouds on title, it could have stopped with subsections 4(a) and 4(b).

Second, intervenor argues that the origin of the language "all other persons" demonstrates that Congress did not intend by including this language to extinguish trespass claims against third parties. Intervenor observes that the extinguishment clause of S. 1830 was amended to include claims against the State and all other persons, in addition to claims against the United States, in response to the urgings of the Western Oil and Gas Association (WOGA) during the 1969 Senate Committee hearings on S. 1830. Intervenor argues that the purpose of WOGA in proposing the additional language, and the purpose of Congress in enacting it, was merely to preclude Native title claims against the oil companies. However, the WOGA statement⁵⁴ on

53. Of course, where individual Natives or a group of Natives have fee title or a lifehold interest in land, their claims of trespass to such land can be proven without a showing of aboriginal use or occupancy. Similarly, a claim of injury or loss of personal property does not depend on a showing of aboriginal title. Accordingly, such claims are not covered by subsection 4(c).

54. WOGA's statement to the Senate Interior Committee during hearings in April 1969 on S. 1830, p. 6 in part at p. 11.

It is clearly desirable for the legislation to be drafted in a plain, simple, and unambiguous manner. The language of the bill should be clear and unambiguous. It should be drafted in a way that is consistent with the intent of the bill. The language should be clear and unambiguous. It should be drafted in a way that is consistent with the intent of the bill.

Section 4(c) of the bill is intended to extinguish claims against the State and all other persons. It is not intended to extinguish claims against the United States.

The purpose of the Settlement Act was to clear title to Alaska land in order to permit development to proceed. It was not intended to extinguish damage claims for past trespasses.

Natives. The Native claims are moral claims, not enforceable legal rights, to land. When lands claimed by the Natives are "taken" by the United States, either for its own use or by transfer, sale, or lease to third parties, the Native claim to the lands are extinguished, and the Natives then have a moral claim to compensation for the loss. As the Federal Field Committee has pointed out, that claim "is the claim to the land itself, 'as against the federal government.'" It is not a claim to the land itself, but a claim to compensation for the loss of the land. The Native claims are moral claims, not enforceable legal rights, to land. When lands claimed by the Natives are "taken" by the United States, either for its own use or by transfer, sale, or lease to third parties, the Native claim to the lands are extinguished, and the Natives then have a moral claim to compensation for the loss. As the Federal Field Committee has pointed out, that claim "is the claim to the land itself, 'as against the federal government.'" It is not a claim to the land itself, but a claim to compensation for the loss of the land.

which intervenor relies shows that WOGA was concerned with precluding Native claims arising from past activities of the oil companies on the North Slope. Thus, intervenor's interpretation of subsection 4(c) finds no support in this part of the legislative history.

[13] Finally, in attempting to avoid the terms expressed in subsection 4(c), plaintiff and intervenor rely heavily on a comment in the 1971 Senate Report explaining the scope of the extinguishment provision. The pertinent part of Senate Report No. 92-405 states:

Subsection 4(a) declares that the provisions of this Act constitute a full and final extinguishment of any and all claims based upon aboriginal right, title, use or occupancy of land in Alaska. The language specifically includes submerged lands and any aboriginal hunting and fishing rights. The extinguishment is final and effective not only for claims against the United States but also for any claims against the State of Alaska and all other persons. Remaining in effect and unextinguished by this Act are all claims which are based upon grounds other than the loss of original Indian title land. Included in such unextinguished claims are suits for an accounting for funds belonging to Natives or Native groups in the custody of the United States, for tort or breach of contract, and for violations of the fair and honorable dealings clause of the Indian Claims Commission Act. Specifically included, and dismissed and extinguished under the terms of this Act, are all claims pending before the Indian Claims Commission and any court, Federal or State, which are based upon a claim of aboriginal right, title, use or occupancy. *Id.* at 110.

Plaintiff's reliance on this somewhat ambiguous passage in the 1971 Senate Report is

ment extends to the United States and all other persons, which will include the State of Alaska, mineral lessees of the United States, and anyone else to whom the United States has granted any interest in lands claimed by

misplaced. The legislative history of the extinguishment provision of the Settlement Act clearly demonstrates that Congress intended to extinguish trespass claims based on aboriginal title.

First, reference to the 1971 Senate Committee hearings where former Justice Goldberg, attorney for the APN, discussed with Senators Stevens and Metcalf the meaning and scope of the extinguishment clause in S. 1830 clearly show that the Senate Committee intended to distinguish between claims based on past Native use and occupancy of land on the one hand, and claims having nothing to do with aboriginal use and occupancy of land on the other hand. The former, including claims of traditional fishing rights, were extinguished. The latter, including, for instance, a claim that the United States breached the Fair and Honorable Dealings clause by bombarding a Native village or a personal injury claim by a Native working for the federal government, were not extinguished.⁵⁵

Second, the language in the 1971 Senate Report on which intervenor relies is actually descriptive of language which appeared in the 1970 Senate Bill but was deleted from the 1971 bill as reported by the Senate Committee. The extinguishment provision of S. 1830 as passed by the Senate in 1970 read as follows:

The provisions of this Act shall constitute a full and final settlement and extinguishment of any and all claims against the United States, the State and all other persons which are based upon aboriginal right, title, use, or occupancy of land in Alaska (including submerged land underneath all water areas, both inland and offshore, and including any aboriginal hunting or fishing rights that may exist) by any Native, Native Village, or Native group or claims arising under the Act of May 17, 1884 (23 Stat. 321), or any other statute or treaty of the United States

the Natives. There will then be no possibility of future dispute.

55. Hearings on S. 1830 before the Senate Commission on Interior and Insular Affairs, 91st Cong., 1st Session (1969), 295-301.

relating to Native use or occupancy of land, including all *land claims (but not claims based on grounds other than loss of original Indian title land)* pending before any court or the Indian Claims Commission on the effective date of this Act. S. 1830, 91st Cong., 2d Sess. § 4(a) (1970) (emphasis added).

No action was taken by the House that year, so the Senate bill was reintroduced in early 1971 with the extinguishment provision in the same form.⁵⁶ No change in the extinguishment provision of the 1971 Senate Bill was made until October, 1971. On September 28, 1971, the House Committee reported out a more broadly worded provision.⁵⁷ On October 5, 1971, the *Edwardsen* suit was filed. On October 21, the Senate Committee reported its bill with an extinguishment provision that had been changed to more closely approximate the House ver-

sion. The revised Senate extinguishment provision omitted the word "land" before "claims" and eliminated the proviso excepting claims based on grounds other than loss of original Indian title land.⁵⁸ Although the 1971 Senate Committee Report fails to give any reason for the change, the chronology of events outlined above indicates that the Senate adopted the broader House language to better express the intent to effect a comprehensive settlement that extinguished all claims based on aboriginal land rights, including the *Edwardsen* trespass and accounting claims.⁵⁹ The Senate's awareness of the *Edwardsen* claims is evidenced by the specific reference to that case in the 1971 Senate Report.⁶⁰

The conference committee adopted the House version of the extinguishment provision. However, there was no real substan-

56. S. 35, 92d Cong., 1st Sess. § 4(a) 1971.

57. H.R. 10367, as reported by the House Committee, contained the following extinguishment provisions:

SEC. 4. (a) All prior conveyances of public land and water areas in Alaska, or any interest therein, pursuant to Federal law shall be regarded as an extinguishment of the aboriginal title thereto, if any.

(b) All alleged aboriginal titles and claims of aboriginal title in Alaska based on use and occupancy, including any alleged aboriginal hunting and fishing rights that may exist, are hereby extinguished.

(c) All claims against the United States, the State, and all other persons that are based on alleged aboriginal right, title, use, or occupancy of land or water areas in Alaska, or that are based on any statute or treaty of the United States relating to Alaska Native use and occupancy, including any such claims that are pending before any court or the Indian Claims Commission, are hereby extinguished.

58. As reported, the provision had been changed from the following: "land claims (but not claims based on grounds other than loss of original Indian title land) pending before any court or the Indian Claims Commission, are hereby extinguished."

The purpose of the Act is to settle all aboriginal claims against the United States, the State, and all other persons which are based upon aboriginal right, title, use, or occupancy of land in Alaska, including any such claims that are pending before any court or the Indian Claims Commission, and to provide for the payment of just compensation for such claims.

tive group or claims arising under the Act of May 17, 1884 (23 Stat. 24), or the Act of June 6, 1900 (31 Stat. 321), or any other statute or treaty of the United States relating to Native use or occupancy of land, including all [land] claims [(but not claims based on grounds other than loss of original Indian title land)] based upon aboriginal right, title, use or occupancy pending before any court or the Indian Claims Commission on the effective date of this Act. All prior conveyances of public land and water areas in Alaska, or any interests therein, pursuant to Federal law, including tentative approvals pursuant to section 601 of the Alaska Statehood Act, shall be regarded as an extinguishment of any and all Native claims thereto.

59. During the 1975 House hearings on proposed amendments to the Settlement Act, Senator Stevens, a member of the 1971 Senate Subcommittee on Indian and Alaska Affairs, explained that the language of the broader extinguishment clause in the House bill in conjunction with the title of *Edwardsen v. Morton* proposed by the Senate to read after the language of our existing extinguishment and accounting provisions. 92 Cong. Rec. 10,367 (1976) (statement of Senator Stevens). H.R. 10367, S. Conf. Rep. No. 94-20, at J 110.

60. S. Conf. Rep. No. 94-20, at J 110, S. 35, 92d Cong., 1st Sess. (1971). Stevens, 92 Cong. Rec. 10,367 (1976) (statement of Senator Stevens). H.R. 10367, S. Conf. Rep. No. 94-20, at J 110.

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tive difference between the final House and Senate extinguishment provisions.

The 1971 House Report states that Section 4 of the House Bill, which is virtually identical to Section 4 of the Settlement Act, "extinguishes all aboriginal titles in Alaska, and all claims based thereon."⁶¹ The House Report further offers the following specific explanation of the extinguishment provision:

The section extinguishing aboriginal titles and claims based on aboriginal title is intended to be applied broadly, and to bar any further litigation based on such claims of title. The land and money grants contained in the bill are intended to be the total compensation for such extinguishment.⁶²

Similarly, the joint House-Senate Conference report set forth the following explanation of the extinguishment provisions of the Settlement Act:

It is the clear and direct intent of the conference committee to extinguish all aboriginal claims and all aboriginal land titles, if any, of the Native people of Alaska and the language of settlement is to be broadly construed to eliminate such claims and titles as any basis for any form of direct or indirect challenge to land in Alaska. (emphasis original).⁶³

[14] The trespass claims asserted in this lawsuit are an indirect challenge to land ownership in Alaska. It was the express intention of the Conference Committee to eliminate such indirect challenges to title.

[15] Thus, Congress has expressly directed that the language of the Settlement Act be broadly construed to effectuate a comprehensive settlement of all Native claims based on aboriginal use and occupancy of land in Alaska and to bar any litigation based on such claims.

61. House Report No. 92-523 at 8, 1971 U.S. Code Congressional and Administrative News at p. 2196.

62. *Id.* at p. 2196.

63. Conference Report No. 92-746, 40, Vol. 2, 1971 U.S. Code Congressional and Administrative News at p. 2196-2253.

Broadly construing the clear language of subsection 4(c) of the Settlement Act leaves no doubt that Congress intended to extinguish and did extinguish Native claims against the State of Alaska and private parties for trespass on aboriginal title lands prior to passage of the Settlement Act.

To summarize, I hold that subsection 4(a) extinguishes aboriginal title to lands tentatively approved to the State or conveyed pursuant to federal law as of the date of the tentative approval or conveyance.

Subsection 4(b) extinguishes all remaining aboriginal title and Native claims to land as of December 18, 1971.

Subsection 4(c) goes beyond extinguishment of claims for compensation for the taking of Indian land and extinguishes all Native claims based on alleged aboriginal occupancy, including claims against private parties for past trespasses.

IV. THE SETTLEMENT ACT'S EXTINGUISHMENT OF TRESPASS CLAIMS IS CONSTITUTIONAL.

[16] Intervenor contends that claims of trespass to aboriginal possession are protected property interests within the meaning of the Fifth Amendment.⁶⁴ It is argued that Congress lacks power to cut off the rights of the Natives to seek judicial relief for third party interference with their possessory rights. Indeed, the *Edwardsen* court's concern that Congress might lack power to extinguish accrued trespass claims led that court to construe the Settlement Act as not affecting accrued trespass claims.⁶⁵

My examination of relevant authorities leads me to conclude that trespass claims based on unrecognized aboriginal title are not protected property interests and, there-

64. The United States does not suggest that Congress had no power to extinguish accrued trespass claims but contends that Congress did not intend to do so in the Settlement Act.

65. *Edwardsen v. Merton*, supra, 369 F. Supp. at 1379.

fore, the Settlement Act's extinguishment of Native trespass claims against third parties presents no constitutional problem.

In *Tee-Hit-Ton Indians v. United States*, 248 U.S. 272, 75 S.Ct. 313, 99 L.Ed. 314 (1955), the Supreme Court determined the nature of the rights of Alaska Natives in lands claimed on the basis of aboriginal use and occupancy.

After concluding that Congress had not recognized the title of the Tee-Hit-Ton Indians to the lands they occupied, the Supreme Court held:

[Unrecognized aboriginal title] is not a property right but amounts to a right of occupancy which the sovereign grants and protects against intrusion by third parties but which right of occupation may be terminated and such lands fully disposed of by the sovereign itself without any legally enforceable obligation to compensate the Indians. 348 U.S. at 279, 75 S.Ct. at 317.

Indian occupation of land without government recognition of ownership creates no rights against taking or extinction by the United States protected by the Fifth Amendment or any other principle of law. 348 U.S. at 285, 75 S.Ct. at 320.

The Court also addressed the concept of aboriginal title in an earlier case, *United States v. Santa Fe Pacific R. Co.*, 314 U.S. 339, 62 S.Ct. 248, 86 L.Ed. 260 (1941). *Santa Fe* was a suit brought by the United States on behalf of the Wulapai Tribe of Arizona to enjoin the Santa Fe Railroad from using certain land claimed by the Wal-

apai by right of aboriginal occupancy and for an accounting of all rents and profits derived by the railroad from past use of the land in question. The Court explained aboriginal title thusly:

Unquestionably it has been the policy of the Federal Government from the beginning to respect the Indian right of occupancy, which could only be interfered with or determined by the United States. 314 U.S. at 245, 62 S.Ct. at 251.

This policy of respecting Indian occupancy rights was "founded on the desire to maintain just and peaceable relations with the Indians." 314 U.S. at 246, 62 S.Ct. at 251.

[17] *Tee-Hit-Ton* makes clear that Indian occupancy of land without government recognition of ownership is not a constitutionally protected interest and therefore may be terminated by Congress at will without compensation. It follows that a claim of past interference with aboriginal use and occupancy is not a property interest and therefore such claim may also be terminated by Congress at will without compensation. Since the underlying interest (Indian use and occupancy) is not constitutionally protected, trespass or other claims of interference with the underlying interest likewise fall outside of constitutional protection.

This is not to say that Indians might never invoke judicial remedies in defense of a right of possession based on aboriginal use and occupancy. It would seem that in order to effectuate the United States' policy of protecting Indian occupancy against third party intrusion, Indians ought to have access to the courts to protect property rights.⁶⁶ We are not now presented with

66. *Edwards v. Morton*, 353 F.Supp. 1459 (D.D.C. 1973). It held that a claim of wrong possession of property is a "claim to support a claim of ownership" and thus is a "claim to support a claim of ownership" and thus is a "claim to support a claim of ownership." It held that the fact that the claimant is not a party to the dispute does not prevent the claimant from asserting a claim of wrong possession of property. It held that the fact that the claimant is not a party to the dispute does not prevent the claimant from asserting a claim of wrong possession of property.

67. See, for example, *United States v. Santa Fe Pacific R. Co.*, 314 U.S. 339, 62 S.Ct. 248, 86 L.Ed. 260 (1941). The *Santa Fe* case was a suit brought by the United States on behalf of the Wulapai Tribe of Arizona to enjoin the Santa Fe Railroad from using certain land claimed by the Wal-

that precise issue. Here, Congress has expressly extinguished any aboriginal possessory rights which the Alaska Natives may have had and all claims based on such possession, including damage claims for past interference with aboriginal use and occupancy. The question is whether Congress has the power to validate prior entries as it did in subsection 4(a) or to extinguish all aboriginal claims challenging such entries as it did in subsection 4(c) of the Settlement Act.

[18] Intervenor in effect challenges the powers of Congress to retroactively extinguish aboriginal title and claims for pre-1971 entries on the North Slope. This challenge must fail. *Tea-Hit-Ton* and *Sente Fe* establish that Congress has plenary power over aboriginal use and occupancy and claims derived therefrom and may extinguish such occupancy rights and derivative claims in any manner it chooses.⁶⁷

[19] Indeed, it is essential that Congress be able to extinguish aboriginal title and all claims based on aboriginal title unimpeded by constitutional restrictions so that Indian land claims and the disputes generated by such claims may be conclusively and finally settled.

To hold, as intervenor urges, that Congress lacked the power to extinguish claims against the United States, the State and third parties for trespass to aboriginal lands in Alaska, would mean that Congress is powerless to effect a final and comprehensive solution to the Native land claims problem in Alaska. It would mean the Settlement Act is illusory. The fact that Alaskan Natives petitioned Congress for a just and final settlement of their claims contradicts the claim now made that Congress was in fact limited in its authority to effect a final settlement.

On the authorities discussed, I conclude that Congress does have the power to effect

in the reservation but were dismissed as to lands outside the reservation.

67. Courts have affirmed the power of Congress to validate prior entries on aboriginal land and thereby retroactively extinguish aboriginal title

a comprehensive and final settlement of the Native land claims issue by extinguishing all claims relating to aboriginal use and occupancy of land, including claims for past trespasses to Native occupied land. Section 4 of the Settlement Act in its entirety is constitutional.

V. CONCLUSION

The Settlement Act settled and extinguished all claims based on aboriginal title, use, and occupancy. Congress meant to settle such disputes, was empowered by the Constitution to settle them, and did settle them.

Accordingly, defendants' motion to dismiss all claims for tortious interference with Natives use and occupancy of lands in Alaska is granted.



In the Matter of JACK LOPEZ WHOLESALERE SHIRT LAUNDRY, Debtor.

UNITED STATES of America

v.

ROYAL GLOBE INDEMNITY COMPANY.

Civ. A. No. 76-934.

United States District Court,
E. D. Pennsylvania.

June 14, 1977.

United States brought action against surety for receiver who operated debtor's business pursuant to a Chapter XI arrange-

and claims arising from these entries. *United States v. Northern Paiute Nation*, 459 F.2d 954, 203 Ct.Cl. 405 (1973); *Shoshone Tribe of Indians v. United States*, 299 U.S. 476, 57 S.Ct. 243, 51 L.Ed. 300 (1937).

ers as an alternative basis of recovery. *F. W. Woolworth Co. v. Contemporary Arts, Inc.*, *supra* (gross profits under \$900); *Key West Hand Print Fabrics, Inc. v. Servin, Inc.*, 269 F.Supp. 605, 615 (S.D.Fla.1966) (infringer made no profit), *aff'd*, 381 F.2d 735 (5th Cir. 1967). The courts there had every reason to award higher compensation for the plaintiffs' substantial but unprovable damage than what the defendants had realized from their infringing activity. We are not faced with a similar situation in this case. The gross profits figure here can hardly be described as *de minimis*. We think the amount sufficient "to discourage wrongful conduct" without necessitating resort to in lieu damages to effectuate that purpose of copyright policy. *Woolworth*, 344 U.S. at 233, 73 S.Ct. 222.²⁵ We find no abuse of discretion and consequently affirm the damage award.

IV. ATTORNEYS' FEES

[9, 10] The copyright statute authorizes the district court in the exercise of its discretion to award reasonable attorneys' fees to the prevailing party. 17 U.S.C. § 116. This court could reverse an order allowing such fees only for abuse of discretion. See *Monogram Models, Inc. v. Industro Motive Corp.*, 492 F.2d 1281, 1288 (6th Cir.), *cert. denied*, 438 U.S. 813, 95 S.Ct. 76, 42 L.Ed.2d 71 (1974). While the \$10,000 awarded plaintiffs in fees might be considered generous when compared with the amount recovered in damages, the fees do not appear unreasonable considering the amount of work necessitated and performed and the skill employed. See also *Key West Hand Print Fabrics*, 269 F.Supp. at 615-16. There was no abuse here.

However, we deny plaintiffs' application for allowance of additional attorneys' fees on appeal. We assume counsel was familiar with the law, having made similar arguments in district court on all the issues raised on appeal. See *Monogram Models*, 492 F.2d at 1288. The appeal was not frivolous.

Plaintiffs did not prevail on their cross appeal. Equity considerations lead us to permit the parties to pay their own attorneys' fees in this court. The plaintiffs are entitled to costs.

Affirmed.



UNITED STATES of America, Plaintiff,
and

Inupiat Community of the Arctic Slope,
Plaintiff-Intervenor-Appellant,

v.

ATLANTIC RICHFIELD COMPANY et
al., Defendants-Appellees.

United States of America,
Plaintiff-Appellant,

and

INUPIAT COMMUNITY OF THE
ARCTIC SLOPE, Plaintiff-
Intervenor,

v.

ATLANTIC RICHFIELD COMPANY et
al., Defendants-Appellees.

Nos. 77-2224, 77-3972.

United States Court of Appeals,
Ninth Circuit.

Jan. 4, 1980.

Rehearing Denied Feb. 22, 1980.

The United States, in its own behalf and on behalf of 23 Alutians inhabiting Arctic Slope of Alaska, a state of Alaska and 130 corporations and private parties for trespass to native land prior to passage of Alaska Native Claims Settlement Act. Defendants moved to dismiss all claims of

25. The award of \$100,000 in attorneys' fees was affirmed by the Ninth Circuit on appeal. *Woolworth*, 344 U.S. at 233, 73 S.Ct. 222.

trespass to land claimed on basis of aboriginal title. The United States District Court for the District of Alaska, James M. Fitzgibbon, J., 435 F.Supp. 1069, granted motion, and appeal was taken. The Court of Appeals, CHOY, Circuit Judge, held that the Alaska Native Claims Settlement Act, pursuant to which natives were granted in exchange \$962,500,000 and 40 million acres of land in fee simple, extinguished not only the aboriginal titles of all Alaska natives, but also every claim "based on" aboriginal title in the sense that the past or present existence of aboriginal title is an element of the claim, and Act would be given retrospective construction so that entries under federal authorization and conditional state leases were not pre-Act trespasses as claimed.

Affirmed.

1. United States \approx 105

The Alaska Native Claims Settlement Act, pursuant to which natives were granted in exchange \$962,500,000 and 40 million acres of land in fee simple, extinguished not only the aboriginal titles of all Alaska natives, but also every claim "based on" aboriginal title in the sense that the past or present existence of aboriginal title is an element of the claim, and Act would be given retrospective construction so that entries under federal authorization and conditional state leases were not pre-Act trespasses as claimed. Alaska Native Claims Settlement Act, §§ 2 et seq., 4(a-c), 43 U.S.C.A. §§ 1601 et seq., 1603(a-c).

2. United States \approx 105

The Alaska Native Claims Settlement Act, under which natives were granted in exchange \$962,500,000 and 40 million acres

* The Honorable Spencer M. Williams, United States District Judge for the Northern District of California, sitting by designation

1. Appellants are the United States and the Inupiat Community of the Arctic Slope. The Inupiat Community is composed of all the Eskimos on the North Slope. In *Edwardsen v. Morton*, 369 F.Supp. 1359 (D.D.C.1973), essentially a suit by the Inupiat against the United States, a claim that the United States breached its fiduciary

of land in fee simple, did not extinguish claims not based on aboriginal title, for example, personal injury claims, claims for damages to personal property and claims for trespass to land held in fee. Alaska Native Claims Settlement Act, § 2 et seq., 43 U.S.C.A. § 1601 et seq.

3. Statutes \approx 235

In cases of ambiguity, statutes are to be construed in favor of Indians, to avoid constitutional questions, to avoid taking vested rights and nonretroactively, but such rules constitute only guidelines, are not substantive laws and should not be used to defeat manifest intent of Congress.

Dirk D. Snel, Washington, D. C., for plaintiff-intervenor-appellant

Richard O. Gantz, Anchorage, Alaska, Avrum M. Gross, Juneau, Alaska, argued for defendants-appellees; Robert L. Hartig, Joseph Rudd, Eugene F. Wiles, Anchorage, Alaska, William B. Rozell, Juneau, Alaska, on the brief.

Appeal from the United States District Court for the District of Alaska.

Before CHOY and KENNEDY, Circuit Judges, and WILLIAMS,* District Judge.

CHOY, Circuit Judge:

Appellants protest the ruling of the district court that their trespass claims were extinguished by the Alaska Native Claims Settlement Act. We affirm.

I. BACKGROUND

Appellants¹ represent all the Eskimos on the North Slope of Alaska. Appellees are

ary duty by authorizing the trespasses involved here survived summary judgment. The United States settled the *Edwardsen* suit by agreeing to sue the defendants here on behalf of the Inupiat. This suit resulted, and the Inupiat intervened.

This opinion will refer generally to all the Eskimos and Indians inhabiting Alaska as "Natives," and specifically to the Eskimos inhabiting the North Slope as "Inupiat."

the State of Alaska² and companies involved in the effort to exploit North Slope petroleum. Until one or two decades ago the North Slope was essentially unpeopled except for a few Inupiat³; more recently, there has been a mighty "oil rush." For the purposes of this appeal, we assume that the Inupiat retained unrecognized aboriginal title to the North Slope until 1971. Such title is good against third parties (we assume *arguendo*) but can be extinguished without compensation by the United States. *Tee-Hit-Ton Indians v. United States*, 348 U.S. 272, 75 S.Ct. 313, 99 L.Ed. 314 (1955).

Pursuant to the Alaska Statehood Act, § 6, the state selected a large amount of oil-rich "vacant, unappropriated, and unreserved" North Slope land for its own in the 1960's. The United States tentatively approved these selections, and the state gave conditional leases to oil interests in exchange for \$912,000,000. Most of the alleged trespasses were under this color of state title. We assume *arguendo* that, because of the Inupiat's aboriginal title, the selections and leases were invalid and the entries were trespasses. *Cf. Alaska v. Udall*, 420 F.2d 938 (9th Cir. 1969) (aboriginal rights might prevent state selection), *cert. denied*, 397 U.S. 1076, 90 S.Ct. 1522, 25 L.Ed.2d 811 (1970). On petition of the Natives, Congress enacted the Alaska Native Claims Settlement Act, Pub.L. No. 92-203, 85 Stat. 688 (codified at 43 U.S.C. § 1601 *et seq.*) ("the Act") on December 18, 1971. Congress found and declared that "there is an immediate need for a fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims," and that "the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation." 43 U.S.C. § 1601(a), (b).

2. The State has a good record of environmental protection.

3. The North Slope comprises 200,000 acres. According to the 1970 census, only 100 people inhabit the entire area, and not all of these were Inupiat. Over 900 Inupiat live in the village of Barrow, the largest of the 14 Inupiat villages on the North Slope.

Appellants instituted this suit against the private defendants for pre-Act trespasses in the belief that the Act had not extinguished such claims. This belief found support in *Edwardsen v. Morton*, 369 F.Supp. 1359 (D.D.C.1973), but the district court in the present case disagreed and dismissed the claims. 435 F.Supp. 1009 (D.Alaska 1977).⁴

[1, 2] We hold that the Act extinguished not only the aboriginal titles of all Alaska Natives, but also every claim "based on" aboriginal title in the sense that the past or present existence of aboriginal title is an element of the claim.⁵ In exchange, the Natives were granted \$962,500,000 and 40,000,000 acres of land in fee simple.

II. STATUTORY LANGUAGE

This case requires a construction of § 4 of the Act, 43 U.S.C. § 1603, which reads:

(a) All prior conveyances of public land and water areas in Alaska, or any interest therein, pursuant to Federal law, and all tentative approvals pursuant to section 6(g) of the Alaska Statehood Act, shall be regarded as an extinguishment of the aboriginal title thereto, if any.

(b) All aboriginal titles, if any, and claims of aboriginal title in Alaska based on use and occupancy, including submerged land underneath all water areas, both inland and offshore, and including any aboriginal hunting or fishing rights that may exist, are hereby extinguished.

(c) All claims against the United States, the State, and all other persons that are based on claims of aboriginal right, title, use, or occupancy of land or water areas in Alaska, or that are based on any statute or treaty of the United States relating to Native use and occupancy, or that are based on the laws of

4. For a more complete explanation of the background of this case, see *id.* at 1013-14.

5. That claimant's alleged pre-Act aboriginal title, if any, included personal injury claims, claims for damage to personal property, and claims for the past or future value of the land, is not precluded.

any other nation, including any such claims that are pending before any Federal or state court or the Indian Claims Commission, are hereby extinguished.

The parties agree, and so do we, that § 4(b) extinguished all aboriginal titles as of December 18, 1971, the date the Act was enacted.

A. Section 4(a)

There is disagreement over § 4(a). Appellants argue that it is retroactive, extinguishing aboriginal title as of the dates of the prior conveyances and tentative approvals of state selections. Appellants read the subsection as being prospective only, so that in post-1971 proceedings the conveyances and selections (and leases thereunder) should be regarded (through legal logéredemain) as unclouded and valid today even if they were invalid when made.⁶ Appellants claim that their aboriginal title was not truly extinguished, however, until 1971. If the Inupiat's aboriginal title was not extinguished until 1971, they arguably have a good cause of action for pre-1971 trespasses; whereas if at the times of entry the oil companies held valid leases from the holders of the valid fee, the entries were not trespassory.

The district court held that § 4(a) was retroactive, and thus that the entries under federal authorization and the conditional state leases (the bulk of all the entries) were not trespasses. 435 F.Supp. at 1022-23. We agree. Both § 4(b) and § 4(c) say that Native interests are "hereby" extinguished; § 4(a) does not, suggesting that it extinguished title as of some past moment. We deem the retroactive interpretation of § 4(a) to be more logical, whereas the prospective interpretation creates a cumbersome legal fiction whose only apparent purpose is to preserve Native trespass claims which (as we hold herein) were immediately extinguished in § 4(c).

6. The Inupiat's argument is that § 4(a), "by ratifying pre-ANCSA federal conveyances, was intended to, and did, give good present title to parties whose land titles would otherwise have

If § 4(a) accomplished anything that § 4(b) and § 4(c) did not, it was to validate the state oil leases (as between the state and its lessees) by establishing that the state had good title to lease out. A retroactive reading serves this purpose directly and well; a prospective reading conspicuously fails actually to validate the leases, but instead directs the courts to regard the leases as if they were valid. Between these two readings, the retroactive one is obviously more reasonable.

B. Section 4(c)

Section 4(a), as we read it, had the effect of eliminating most of appellants' trespass claims. We further hold that § 4(c) specifically extinguished all trespass claims.

Without doubt, § 4(c) abolished all Native claims based on the actual "taking" (extinguishment) of aboriginal title. The question presented on appeal is whether or not the district court was correct to say that § 4(c) went farther and extinguished "all claims . . . that are based on . . . aboriginal right" in the sense that the past or present existence of aboriginal title is an element of the claims.

Several passages in the subsection clearly indicate that Congress intended to extinguish more types of claims than merely claims for the "taking" (extinguishment) of aboriginal title. Therefore, we conclude that the district court was correct.

The subsection reads, "All claims against the United States, the State, and all other persons that are based on claims of aboriginal right . . . are hereby extinguished." Since only the United States could extinguish the Natives' aboriginal title, only the United States could be the defendant in a suit based on extinguishment of title. Yet all claims against "the State, and all other persons" were extinguished as well. In order to make the language regarding "the State, and all other persons" meaningful, there is no choice

been void even after the general extinguishment of aboriginal title in Alaska effected by subsection 4(b)."

but to construe the statute to extinguish certain types of claims, "based on aboriginal right," that might be brought against the State and other persons. The quintessential action against private citizens, based on aboriginal title, is an action for wrongful invasion, use, and assertion of dominion over the property—trespass.

Moreover, such trespass claims might be brought by Natives in "state court," as § 4(c) contemplated, while claims against the United States for extinguishment of title could only be brought in federal court. Further, at the time the Act's language was drafted, no claim based on extinguishment of title was "pending" in any court, yet Congress extinguished all pending claims. Congress must have had in mind claims based on pre-1971 activities.

In short, when Congress said in §§ 2(a) and 4(c) of the Act, 43 U.S.C. §§ 1601(a), 1603(c), that it was settling "all claims," it meant just that. Congress intended to and did extinguish all Native trespass claims based on aboriginal title.

III. LEGISLATIVE HISTORY

To be sure, the strict "plain meaning rule" has been relaxed, and we may examine legislative history to help us construe even seemingly clear statutory language. *Doyon, Ltd. v. Bristol Bay Native Corp.*, 569 F.2d 491, 494 (9th Cir.), cert. denied, 439 U.S. 954, 99 S.Ct. 352, 58 L.Ed.2d 345 (1978). Such examination, however, does not alter our reading of § 4(c). The House report stated,

Section 4 extinguishes all aboriginal titles in Alaska, and all claims based thereon, and

The section extinguishing aboriginal titles and claims based on aboriginal title is intended to be applied broadly, and to bar any further litigation based on such claims of title.

H.R.Rep. No. 523, 92d Cong., 1st Sess. 6, 8, reprinted in [1971] U.S.Code Cong. & Ad.

7. The House and Senate Committee Reports are cited in the S.Ct.Rep. No. 781, 92d Cong., 1st Sess. (1971), H.R.C. 112 p. No. 776, 92d

News 2196, 2198. The Senate report stated that the objective of the legislation was to avoid

a myriad of lawsuits which cannot provide justice to any of the parties involved but which may be expected to increase the existing antagonisms between Native people and other Alaskans.

S.Rep. No. 405, 92d Cong., 1st Sess. 73 (1971). The Conference Committee report⁷ stated,

It is the clear and direct intent of the conference committee to extinguish all aboriginal claims and all aboriginal land titles, if any, of the Native people of Alaska and the language of settlement is to be broadly construed to eliminate such claims and titles as any basis for any form of direct or indirect challenge to land in Alaska.

Conf.Rep. 40, reprinted in [1971] U.S.Code Cong. & Ad.News 2253 (emphasis in original).

The statements of former Justice Arthur Goldberg, attorney for the Alaska Federation of Natives, before Congress in 1969 also support the district court's conclusion. Goldberg, under questioning by Senator Stevens of Alaska, said, "The position that the Natives have taken is that they are prepared for an extinguishment of anything that is based upon aboriginal title." *Alaska Native Land Claims: Hearings on S. 1830 Before the Senate Comm. on Interior and Insular Affairs*, 91st Cong., 1st Sess. 300-01 (1969). And Goldberg painstakingly informed Congressman Pollock of Alaska that the Natives would be unable to assert claims against private parties for pre-extinguishment trespasses, and that he said this just after conferring about it "with all of the Native representatives who are here and all their regional counsel." *Alaska Native Land Claims: Hearings on H.R. 15142 and 10193 Before the Subcommittee on Indian Affairs of the House Comm. on Interior and Insular Affairs*, 91st Cong., 1st Sess. 267 (1970). While these statements do not es-

7. The House and Senate Committee Reports are cited in the S.Ct.Rep. No. 781, 92d Cong., 1st Sess. (1971), H.R.C. 112 p. No. 776, 92d

top the Inupiat or other Natives, they do suggest what Congress meant by the language it enacted into law.

Indeed, in view of the repeated statements in the legislative history that the statute should be "broadly" applied to extinguish "all claims," and in view of Congress' knowledge of the Natives' trespass claims, it would be incomprehensible to us if Congress did not intend to extinguish the trespass claims, along with all other claims based on aboriginal title, when it gave the Natives over 60,000 square miles of fee simple land and almost a billion dollars.⁸

The Inupiat's only support from the legislative history is the following passage from S.Rep. No. 405, 92d Cong., 1st Sess. 110-11 (1971):

Subsection 4(a) [§ 4(c) of the Act as passed] declares that the provisions of this Act constitute a full and final extinguishment of any and all claims based upon aboriginal right, title, use or occupancy of land in Alaska. The language specifically includes submerged lands and any aboriginal hunting and fishing rights. The extinguishment is final and effective not only for claims against the United States but also for any claims against the State of Alaska and all other persons. Remaining in effect and unextinguished by this Act are all claims which are based upon grounds other than the loss of original Indian title land. Included in such unextinguished claims are suits for an accounting for funds belonging to Natives or Native groups in the custody of the United States, for tort or breach of contract, and for violations of the fair and honorable dealings clause of the Indian Claims Commission Act. Specifically included, and dismissed and extinguished under the terms of this Act, are all claims pending before the Indian Claims Commission and any court, Federal or State, which are based upon a claim of aboriginal right, title, use or occupancy.

8. Congress was aware that under *Tee Hit Ton Indians v. United States*, 348 U.S. 272, 75 S.Ct. 313, 99 L.Ed. 314 (1955), it was not obligated to give the Natives any compensation at all for the taking of aboriginal title. While Congress, as a matter of grace, surely intended a substan-

However, this language does not persuade us that Congress, or even the Senate, meant to preserve the Natives' trespass claims, for the following reasons:

(1) True, the report language preserves suits "for tort," and trespass is a tort. However, we think that the Senate's meaning, as indicated by the three other kinds of action it specifically preserved and by the legislative history, generally, was that all kinds of civil action were preserved if they were not based in any way on aboriginal title. Thus, such "tort" actions as those based on personal injury or damage to personal property would not be extinguished. The passage is no better than ambiguous on the issue of whether or not trespass actions based on aboriginal title were to be preserved.

(2) The report language preserves "all claims which are based upon grounds other than the loss of original Indian title land." But appellees correctly point out that this paragraph from the 1971 Senate report is identical to the corresponding paragraph in S.Rep. No. 925, 91st Cong., 1st Sess. 114 (1970), a report on an earlier bill that never became law. Yet there was a major difference between S. 35 (1971) and S. 1830 (1970). The following is the language of S. 35, with words added to S. 1830's language in italics and words deleted from it in brackets:

The provisions of this Act shall constitute a full and final settlement and extinguishment of any and all claims against the United States, the State and all other persons which are based on aboriginal right, title, use, or occupancy of land in Alaska . . . , including all [land] claims [(but not claims based on grounds other than loss of original Indian title land)] *based upon original right, title, use or occupancy* pending before any court or

nal part of the large settlement to be in exchange for the taking of title, we cannot but wonder if the settlement would have been so large if Congress did not believe it was also taking something for which it had to pay.

the Indian Claims Commission on the effective date of this Act.

The fact that the 1971 report said it was preserving claims based on "grounds other than loss of original Indian title land," when precisely that language had just been excised from the 1971 Senate bill, persuades us that the district court was correct in concluding that the verbatim carryover of the 1970 Senate report language into the 1971 Senate report was just a hasty mistake.

(3) The Inupiat claim that the 1971 change in the language of the Senate bill made and was meant to make no substantive change. The chronology of the change suggests otherwise, see 435 F.Supp. at 1028. At any rate, the very fact that the language of the Senate bill was changed, and from language that preserved the trespass claims to language that at the very best was ambiguous about the trespass claims, undermines the Inupiat's contention. They have advanced no reason why this change was made. In these circumstances, we are inclined to credit the post-Act testimony of Senator Stevens of Alaska, who said that the filing of the trespass-based *Edwardsen v. Morton* and the reporting of the House bill's broader extinguishment clause "caused us in the Senate to reconsider the language of our extinguishment provision, and we concluded that it should be broadened so as to leave no doubt that the settlement would be total." *Alaska Native Claims Settlement Act Amendments: Hearings on H.R. 2511 Before the Subcomm. on Indian Affairs of the House Comm. on Interior and Insular Affairs, 94th Cong., 1st Sess. 110 (1975), quoted in 435 F.Supp. at 1028 n.59.* We conclude that, whether or not in 1970 the Senate wanted to preserve Native trespass claims, in 1971 it intended to and did vote to extinguish them.

(4) Even in the absence of the foregoing, a strict reading of the 1970 Senate bill's language would compel the conclusion that the only trespass claims preserved by the statute are those not claims based on title land other than loss of original Indian

title land)" would be those "pending" before a court or agency on the Act's effective date. Since no Inupiat suit against the private defendants was pending on that date, we would have to hold the claims in this case extinguished even if the 1970 Senate bill (or its spirit) were the governing law.

(5) Finally, whatever the Senate bill and report entailed, it was the *House* version of § 4 that emerged victorious in the Conference Committee and was then approved by both houses. The Conference bill followed the House bill almost word-for-word, omitting only two words and adding a few phrases not material here. The organization of the Senate bill was substantially different. True, the conference report stated, "The conference report language, in substance, the same as the language of the Senate amendment." Conf.Rep. 40, reprinted in [1971] U.S.Code Cong. & Ad. News 2253. However, this sentence was immediately followed by language quoted above to the effect that "all aboriginal claims" were extinguished, and that "the language of settlement is to be broadly construed to eliminate such claims," and was included in a section entitled "Major Differences Between the Conference Report and the Senate's Amendment in the Nature of a Substitute to the House Passed Bill." Thus it is clear that the conference bill followed the intent of the House. When it was said that its language was "in substance, the same as the language of the Senate amendment," this signified only that the conferees also interpreted the Senate's language to extinguish Native trespass claims.

In sum, nothing in the Senate report or the other legislative history convinces us that Congress really meant, in the teeth of the statutory language, to preserve the trespass claims asserted in this case.

IV. RULES OF CONSTRUCTION

(1) The Inupiat also advanced several arguments based on rules of statutory construction. It is true that in cases of ambiguity, courts are to favor the Indian

in favor of Indians. (2) to avoid constitutional questions; (3) to avoid taking vested rights; and (4) non-retroactively. However, these are only guidelines, not substantive laws, and should not be used to defeat the manifest intent of Congress. It cannot be doubted that Congress has power to pass a law that violates the spirit of all four of these rules, and we should not deny effect to such a law when it is enacted. Moreover, both the Conference and House reports direct, as we point out above, that § 4 be construed "broadly" to extinguish all claims and litigation, and this takes precedence over generalized rules of construction.

We add the following comments. The rule of construction of ambiguous statutes in favor of Indians is based on a concern that the powerful not take advantage of the helpless and uneducated. A similar concern guides modern law on the construction of contracts of adhesion. Where, as here, the Inupiat were represented before Congress by such illustrious counsel as former Supreme Court Justice Arthur Goldberg and former Attorney General Ramsey Clark, we think the rule of construction operates with less force.

We also find the rule to construe statutes to avoid constitutional questions to be less compelling than the rule, not implicated here, to construe statutes so as not to be forced to hold them unconstitutional. The constitutional question we are asked to obviate is whether or not under the Fifth Amendment compensation must be paid for taking the Inupiat's trespass claims. Our holding here clears the way for this question to be addressed in some other forum, but we express no opinion on what the answer should be.

Although we recognize the rules of construction regarding takings and retroactivity, we find that Congress has sufficiently clearly expressed its intent in these areas.

V. ISSUES NOT REACHED

Our disposition of this case makes it unnecessary for us to decide (1) whether or not the Inupiat ever had or retained aboriginal title to all the land they claimed;

(2) whether or not the aboriginal title had already been extinguished before the Act and before the trespasses alleged here; (3) whether or not Congress gave just compensation for the package of various Native properties and interests it took and extinguished by giving the Natives 40 million acres of land and nearly a billion dollars; and (4) whether or not any Fifth Amendment compensation is required at all for the Native properties and interests taken and extinguished by the United States. Perhaps these questions will be decided in *Inupiat Community of the Arctic Slope v. United States*, No. 77-596 (Cl.Ct., filed Dec. 16, 1977). We note that if they are decided favorably to the Inupiat there, the Inupiat might recover as just compensation from the United States the same amount that they could have recovered from the trespassing private defendants in the absence of the Act.

AFFIRMED.



UNITED STATES of America,
Plaintiff-Appellee,

v.

John D. CLARDY, Defendant-Appellant.
No. 78-2373.

United States Court of Appeals,
Ninth Circuit.

Jan. 7, 1980.

Rehearing Denied Feb. 19, 1980.

Defendant was convicted in the United States District Court for the Northern District of California, William H. Orrick, Jr., J., on three counts of an indictment charging him with aiding or assisting three taxpayers in the preparation of fraudulent or false tax returns. Defendant appealed, and the

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STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

C
JAY S. HAMMOND, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE:

April 8, 1982

Mr. Craig Tillery
Alaska Legal Services
615 "H" Street
Anchorage, Alaska 99501

Dear Craig:

The Department of Natural Resources has reviewed the location of all known native allotment applications currently on file for lands in the Haines area. Attached is a listing of all allotment applications which were reviewed.

Most of the allotments are located on State patented and tentatively approved lands, and subject to the Aguilar decision (August 8, 1979). In that decision, the court found that allotment applications should not be rejected solely because they were not filed prior to the State receipt of patent or tentative approval. If the applicant can show that use and occupancy commenced prior to the State receipt of patent or tentative approval and continued for sufficient duration to qualify under the Native Allotment Act, the application will be approved and court action initiated by the Federal government to rescind its conveyance to the State of Alaska.

Unfortunately, the Bureau of Land Management is not funded to perform its adjudication responsibilities for Native Allotments to the detriment of both the State and the allotment applicants. Further, should adjudication show the application is valid, a protracted court proceeding may be necessary to rescind the federal conveyance to the State.

As we discussed it would be mutually advantageous to the State and allotment applicants, if the State had the option to quit claim its interest on patented or tentatively approved land subject to valid allotment applications and BLM was required to convey such interest to the allotment applicant. While this option would only be used at the State's discretion, it would save considerable time and expense to all parties where it was exercised. Further, I would be generally consistent with the rationale used by

Mr. Craig Tillery
April 8, 1982
Page 2

Congress in Section 905 of ANILCA, where legislative approval was used to by pass the adjudication process in certain cases.

In addition, we have reviewed the proposed two stage adjudication process suggested by Regional Solicitor Jack Allen, and find it reasonable. The State will join with you in urging Congress that sufficient funds be made available to BLM to expedite adjudication on this or a similar process.

Finally, with regard to specific allotment applications in the Haines/Skagway area, we divided them into three categories: (1) those which the State would be willing to quit claim its interest if a mechanism is made available for this purpose by Congress or by administrative action of BLM), (2) those which the State would quit claim its interest provided that rights-of-ways were granted the State by allotment recipients, and (3) those that the State would insist on a full BLM adjudication process.

Provided that State legislation is adopted this year establishing the Haines State Forest and the Chilkat Bald Eagle Preserve, the State is willing to place the following allotment applications in categories (1) through (3) for the purpose of resolving land status and reducing expensive and time consuming court actions.

Sincerely,

Reed Stoops, Director
Division of Research & Development

D

KLUKWAN IRA CHILKAT INDIAN VILLAGE COUNCIL

Klukwan, Alaska

3/8/82

Attached is a petition addressed to:

THE GOVERNOR OF ALASKA, THE STATE AND HOUSE RESOURCE COMMITTEES, THE LEGISLATIVE BODY, SENATOR BILL RAY, REPRESENTATIVE JIM DUNCAN AND TO WHOM IT MAY CONCERN

All correspondence and/or telephone communications, from addressees regarding this petition, should be directed to:

Mr. James Stevens, President
IRA Council
Box 220
Haines, Alaska 99827
Phones: Home 766 2404 Business 766 2805

AND ALSO

Mr. Joe Hotch, Vice President
IRA Council
Box 525
Haines, Alaska 99827
Phone: 766 2556

The Community of Klukwan was not considered as part of the Consensus sign-off, in a letter dated February 26, 1982 to Governor Jay Hammond from the Mayors of the City and Borough of Haines. Therefore; the residents of Klukwan are taking this opportunity to express their overwhelming opposition to any legislative vehicles or legislation that involves land selection or land designation in this area.

BEFORE THE GOVERNOR OF ALASKA, THE STATE AND HOUSE RESOURCE COMMITTEES, THE LEGISLATIVE BODY, SENATOR BILL RAY, REPRESENTATIVE JIM DUNCAN AND TO WHOM IT MAY CONCERN.....

In the Matter of Opposition to State Land Selections in the Haines Borough for the Purpose of Creating a Bald Eagle Preserve and a Forestry Resource Management Area under SB 796 and House Bill 881 or any other State Land Selection Legislation at this time.

A PETITION

Whereas: the Klukwan IRA Chilkat Indian Village Council and/or members oppose any State of Alaska selection or designation of lands within the Haines Borough until letter, dated April 26, 1977, to Mr. John Kelly, Field Solicitor, United States Department of Interior, relating to Trespass on 2.6 million acres of traditional lands is resolved, and

Whereas: the Klukwan IRA Chilkat Indian Village Council has gone on record as in opposition, and

Whereas: the IRA of the Chilkat Indian Village would like to establish that they are a separate entity from Klukwan, Inc., that Klukwan Inc. does not represent IRA, and that IRA may make decisions separate from Klukwan Inc. and that IRA decisions involve the Chilkat Indian Village located at Klukwan and should be respected as such, NOW

We, the undersigned, being all of clear mind and residents of the Village of Klukwan, DO HEREBY PETITION the Governor of the State of Alaska, the State and House Resource Committees of the State of Alaska's Legislative Body, the entire Legislative Body of the State of Alaska, Senator Bill Ray, Sponsor of SB796, Representative Jim Duncan, Sponsor of HB 881 and to whom it may concern to stop all action on SB796, HB881 and any other legislative vehicles that involve State land selection in the Haines Borough until all native lands to include pending native allotments are resolved.

NAME James D. Baker ADDRESS Klukwan AK
Richard P. Hitch
Robert N. Pange
Richard P. Hitch
Klukwan Alaska
Klukwan
Klukwan

59
Signatures

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.



Alaska State Legislature

SENATE Resources Committee

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

MEMBERS PRESENT

Senator Fahrenkamp
Senator Fischer
Senator Eliason
Senator Gilman
Senator Mulcahy
Senator Sturgulewski

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

April 7, 1982
1:35 p.m.

Beltz Room
Room 211 - Capitol

Hearing: TELECONFERENCE

SSSB 796 Providing for the management of state owned land in the Haines area, establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area.

Reed Stoops, Director, Division of Research and Development, Department of Natural Resources, expressed support for the bill, stating it was a cooperative effort, and the result of three years of intense research and a complete public review process. He noted one outstanding problem, 55 Native allotments. DNR is working with the allotment applicants, and is optimistic they can reach a negotiated conclusion.

Dave Cline, National Audubon Society, confirmed his support for the bill, stating that the balanced solution represented in SB 796 could serve as a model for solving other resource disputes in the state. He also praised the unprecedented local contribution to planning.

Joe Hotch, Vice President, Chilkat Indian Village, urged the postponement of passage of SB 796, stating that the matter has been rushed. He referred to the history of his village and the many times their lands have been taken away as reason for his people's opposition to the bill.

Jon Halliwill, Mayor of Haines, expressed support for SB 796, favoring the state control of lands with much local participation, and praising it as a bill of the majority of the people in the Chilkat Valley.

Dorothy Fossman, Secretary, Upper Lynn Canal Committee, said they are neither for or against the bill, and were not a signatory because they felt it was an inappropriate issue for their involvement.

Ray Menaker, Lynn Canal Conservation Society, Haines, supports SB 796 as a reasonable compromise. He suggested renumbering for clarification at the bottom of page 1.

Bob Henderson, Haines Borough Mayor, expressed approval for SB 796, stating it would benefit the tourism, fisheries, and lumber industries, and the Chilkat Natives.

John Schnabel, Schnabel Lumber Company, Haines, supports SB 796, stating that the current moratorium has caused a tremendous inconvenience.

Mel Palmer, Chairman, Haines Branch Alaska Miners' Association, expressed support for SB 796, stating that it addressed all of their concerns. The multiple-use state forest is compatible with mining interests; the large low-grade iron ore deposit bordering the area is provided for. He suggested two changes: Add "or his or her nominee" on page 6, lines 5 and 8; on page 6, line 1 include the Chilkoot Indian Association IRA on the advisory board.

Gary Howard, Chilkat Valley, supports the bill, stating that if SB 796 does not pass, he fears federal action will be taken.

Mildred Sparks, Klukwan, said the people of her village can't be blamed for their lack of support, for they have been hurt too many times in the past, and, in addition, don't fully understand what is happening.

Ron Johnson, Fairbanks, supports SB 796.

Charlotte Hok, Fairbanks, urged the passage of SB 796.

Steve Laroe, Interior Woodcutters' Association, Fairbanks, stated his support for SB 796.

Sally Kebisch, Sierra Club, Anchorage, expressed support for SB 796.

David Finkelstein, Anchorage, supports the bill.

The National Wildlife Federation, AKPIRG, and Friends of the Earth combined their statement of support.

Dr. M. Pat Wittakins, Audubon Society, Anchorage, supports SB 796.

Paul Wellman, City of Haines, expressed support for the bill and the economic growth it will allow.

Barry Gross, Ketchikan, supports SB 796, calling it a "historic compromise".

Michael DeMan, Central Council of the Tlingit and Haida Indian Tribes, expressed opposition to SB 796, stating that it was done without attention to the people of Klukwan. He read a resolution adopted by the Alaska Native Brotherhood Grand Camp opposing the bill, and urged postponement of its passage for one year until all the ramifications of the plan are fully understood.

Jim Stratton, Executive Director, Southeast Alaska Conservation Council, expressed support for SB 796.

Senator Fahrenkamp announced a meeting to resolve the existing technical problems with the bill for 9 a.m. the following morning.

The meeting was adjourned at 3:00 p.m.



Alaska State Legislature

SENATE

Resources Committee

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

MEMBERS PRESENT

Senator Fahrenkamp
Senator Fischer
Senator Eliason
Senator Gilman
Senator Mulcahy
Senator Sturgulewski

April 14, 1982
1:35 p.m.

Beltz Room
Room 211 - Capitol

Hearing:

- SB 794 Establishing certain areas as units of the Alaska marine park system.
- SB 795 Relating to outdoor recreation and historic projects.
- SSSB 796 Providing for the management of state owned land in the Haines area, establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area.

SSSB 796

Resa King, Administrative Assistant, described the two meetings that had been held with Klukwan, Tlingit/Haida Central Council, Audubon Society, City of Haines, and the Department of Natural Resources since the April 7th hearing on SSSB 796, and stated that memos outlining those meetings were in the Committee members' packets. The meetings were to, 1) satisfy the concerns of Klukwan, and 2) answer questions raised by the legal division.

Jeff Haynes, Deputy Commissioner, Department of Natural Resources, expressed support for the bill, but indicated that technical amendments may need to be made before final passage.

Senator Mulcahy moved CSSSB 796 with individual recommendations.

SB 794

Phil Holdsworth, Juneau, expressed concern that the areas listed in Section 2 of the bill include many which are the only potential sites for log transfer facilities and industrial docks, especially in Southeast.

Jeff Haynes, DNR, explained that the areas listed in Section 2 are study areas, and will not necessarily be included in the marine park system. Decisions on which lands to include will involve a visible

Senate Resources Committee

April 14, 1982

Page 2

public process, and no lands will be included without legislative approval. Haynes stated that areas other than those listed in Section 2 can be studied also.

Senator Gilman expressed concern over language in the bill that would close the park lands to multiple use. He moved an amendment deleting page 1, lines 22-29 (CS) and asked unanimous consent.

Senator Fischer moved CSSB 794, as amended, with individual recommendations.

SB 795

Senator Fischer moved an amendment deleting page 3, lines 14-17 (CS #2) and asked unanimous consent. He then moved CSSB 795 as amended with individual recommendations.

The meeting was adjourned at 2:05 p.m.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 19, 1982

SUBJECT: Eagle Preserve/Haines Forest
(CSSB 796 (Resources))

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

FROM: Richard A. Bradley 
Legislative Counsel

I understand that the Resources Committee has reported out CSSB 796 (Resources). The bill is prepared as requested by Resa King; I gather that the parties to the proposals for an Eagle Preserve and the Haines State Forest have insisted that certain language be included in the bill and I believe that in each such case the language has been included.

Because I have reservations about the efficacy of some of the language, I believe that it is appropriate to state them for the record.

In sec. 507(c), the committee requested that the last line of that section read that "allotments . . . be treated as private land including but not limited to rights of way acquisition under AS 41.20.506 - 41.20.525". I have advised Resa King that I consider the language "are private lands" legally more accurate and more efficacious from the point of view of allottees.

Allotments are private land. The fact that the United States holds legal title for the benefit of the allottee is irrelevant.

I understand that the phrase "including but not limited to rights of way acquisition" is aimed at the Department of Transportation and Public Facilities in its acquisition of highway right of way. That point is beyond the subject of this bill.

Note that the phrase "under AS 41.20.506 - 41.20.525" which was left in made the section provide for the "right of way acquisition" "under the Eagle Preserve laws", a logically impossible situation. Since you apparently wanted the allotments to be treated as private property for all purposes, I deleted the AS 41.20 phrase and the rights of way phrase. Since the result is that allotments are now to be treated as private land without any qualification, I believe that I have achieved your purpose without the use of confused language and without intruding material into the bill that would violate the single subject rule.

I believe I have made no changes to sec. 507(g). I have reservations about its style and its apparent use of different words to mean the same thing. Because the parties seem to feel strongly about the existing language, I simply note that it could be improved on.

Sec. 507(h) could similarly be improved.

The proposed sec. 515(f) apparently made DNR an insurer of the safety of the sites identified. DNR is without the authority to do that, even if the legislature makes a direct authorization to that effect. After discussion with Resa King, I made some changes that are consistent with the goals of the parties.

I confess that sec. 41.20.525(a) is confused. I have been limited in solutions to the confusion because the parties have here also a rather complex understanding about what is brought in by the phrase "activity conduct in compliance with law". In my own view, the better drafting solution is to state explicitly what these understandings are. I believe my change to the material in the middle of the section is clearer than the suggested "adjacent to" language which, as my earlier memorandum to the committee suggested, created a series of problems.

Sec. 41.15.510(c) (Native Allotments) is treated as they are treated in the Eagle Preserve section.

Some final points. The descriptions have been revised to include lands omitted in the first descriptions. A portion of Section 4 in the April 16, 1982, draft has been moved to Sec. 41.15.520(b) and recast as permanent law. And material

Senator Bettye Fahrenkamp
Page 3
April 19, 1982

has been shorn from Sec. 41.20.525 and moved to the end of
Sec. 41.20.507.

And my reservation about the language in a number of sections
arises from my concern that the parties apparently have complex
understandings about the impact of the language in these
sections that is, at best, indirectly stated. There are, I
gather, contrived ambiguities. While the parties may think
they know what the words are intended to mean, after enact-
ment that words mean not what the parties "think" they mean
but rather what the words say. I hope there are no surprises.

If I may assist further, please advise.

RAB:ljb

Enclosure

Amendment

1

ADD NEW SECTION -

page 2
line 2

(5) Protect and enhance the traditional and natural resource based lifestyle of the people within the areas designated by this act, as they so determine it to be. according to applicable law.

Revise: (5) Provide continued opportunity for the traditional and natural resource based lifestyle of the people within the area designated by this section, consistent with the other purposes of section 41.20.506 (a) & (b).

2

page 2
line 11

ADD AFTER -

"in the future, except as provided herein."

12

unnecessary

3

page 2
line 75

ADD AFTER -

Constitution, except as provided herein.

18

unnecessary

Amendment cont'd

4
page 2
line ~~17~~
20

ADD AFTER -
valid existing rights, except as provided herein.

unnecessary

5
page 2
line ~~22~~
25

ADD AFTER -
private land, including allotments as provided
- Gov. in 4120 507 (c)

(OK)

6
page 2
line ~~23~~
26

ADD AFTER -
of this act and future land selections made by any
other entitled community entity under applicable
law.

*This is covered under amendment
#10.*

Amendment
7
Page 3
Line 37

2

ADD AFTER -

"preserve." The State hereby removes all objections to any pending allotments, commits applicable survey and adjudication costs to determine valid ownership of allotments within the confines of areas included in this bill during fiscal years 1983 and 1984. The State further quitclaims to the BLM for this purpose all rights to which the State has title to or tentative approval, concerning such valid allotments.

NO

The Department of Transportation is directed to submit for arbitration all trespass claims made by allottees or their representatives for right-of-way taken. All pending and approved allotments located partially or completely within the preserve shall be treated as private land under AS 41.20.506-41.20.525, including but not limited to rights-of-way acquisition.

State has already made agreement with Alaska legal services on allotments

Amendment
8
Page 3
line 12

19

ADD AFTER -

service, the local governing bodies within the areas proposed and the... *are already on advisory committee*

OK

4/15/82
page 4

Amendment
9
page 3
LINE 17

ADD AFTER -
"council" and any local fish and game advisory
councils in proposing ...

OK

Amendment
10
page 3 4
line 25 2

DELETE AFTER -
"Laws" (and to municipal selctions made after the
effective date of this act.) ~~Maybe in context?~~

OK

permits future municipal selections
in the preserve

Amendment
11
Page 4
line 7/3

ADD AFTER -
"firewood." Notwithstanding any prohibition the
utilization of fish and game resources for religious
or cultural purposes by the people of Klukwan is per-
mitted, according to applicable law

NO

Subject of ADPFG- 7 statutes -
not appropriate a govern to this
yill

4/15/82
page 5

Amendment

12

page 4

line 8 ~~11~~ DELETED AFTER -

"shall (be permitted to) continue"

OK

Amendment

13

page 4

line 13

DELETED AFTER -

(Director of the Division of Parks) replace
with "Advisory Council"

Would create Advisory Council
a "regulatory board"

NO

Amendment

14

page 4

line 15

ADD AFTER -

"Land," Native allotments approved or pending,
local governing body selections described in
41.20.507 (b), valid

Covered under valid occupancy

OK

Amendment

15

page 4⁵

line 26⁴

ADD AFTER -

"State agency," local Governing Body or Federal Agency

OIL

Amendment

16

page 5

line 28⁵

ADD AFTER -

"in written consultation"

OIL

Amendment

17

page 5⁴

line 28⁷

ADD AFTER -

"parcels with the exception of land selections of a local governing body pursuant to applicable law are designated."

does not make sense

Amendment
18
page 613
line 20
27

ADD NEW PARAGRAPH
Two representatives of the Klukwan IRA Chilkat
Indian village council

(NO)

Considerable compromise has already
been made to Structure Advisory
Council. This would expand Klukwan
representation from 2 to 4 members.

Amendment
19
page 814
line 13

ADD "Timber Harvest, activities referred to in 41.20.507
(G), mining



OK

Amendment
20
page 815
line 14

ADD "rights, Except as provided herein, the

No nonvalid existing rights

(NO)

UNNECESSARY, REQUIRING LES

Amendment
21

page ~~8~~ 13
line ~~25~~ 6

ADD Private Land, Native allotments pending and approved, existing

unnecessary - covered under section C+

Amendment
22

page ~~8~~ 18
line 25 7

ADD "corridors, ^{Municipal:} ~~future land selections made by any other entitled community entity~~ under applicable law and borough selections

Intent is to allow municipal selections in forest. Dick Bradley re-wrote our suggestion.

Amendment
23

page ~~9~~
line 5

ADD after "area." The State hereby removes all objections to any pending allotments, commits applicable survey and adjudication costs to determine valid ownership of allotments within the confines of areas included in this bill during fiscal years 1983 and

(NO)

Amendment
23
Cont'd

1984. The State further quitclaims to the BLM for this purpose all rights to which the State is entitled concerning such valid allotments. All such allotments pending or approved shall be treated as private and under AS 41.15.500 - 41.15.520.

The Department of Transportation is directed to submit for arbitration all trespass claims made by allottees or their representatives for right-of-way taken. All pending and approved allotments located partially or completely within the preserve shall be treated as private land under AS 41.20.506-41.525, including but not limited to rights-of-way acquisition.

Amendment
24
page 9¹⁸
line 9²⁰

ADD AFTER -
"council" and any local fish and game advisory council
to promote...

OK

Amendment
25
page 10 19
line 11 24

ADD AFTER -

"AS 41.15.500 - 41.15.520" Provided however that continued opportunities for traditional uses of the Haines Forest Resources Management Area at levels and by traditional methods and means are guaranteed. These historically compatible uses include but are not limited to hunting, trapping, fishing, berry picking, other subsistence and recreational uses, operation of motorized vehicles and the harvesting of personal use firewood. ~~Notwithstanding any prohibition the utilization of fish and game resources for religious or cultural purposes by the people of Klukwan is permitted.~~
~~according to applicable law~~

OK with deletion

Amendment
26
page 10 20
line 19 3

DELETE AFTER -

"Disposal Laws" (and to municipal selections made) after...

OK

OK

4/15/82
page 11

Amendment
27

page 10²⁰

line 24³ ADD AFTER -

"Fish and game" and local governing bodies
during the...

OK

OK

Amendment
28

page 10²⁰

line 28¹² ADD AFTER -

"natural resources" and any local fish and game ad-
visory councils, before adopting ..."

OK

OK

Amendment
29

page 11²⁰

line 2¹⁵ ADD AFTER -

"public hearing" in Haines and Klukwan.

OK

OK

4/15/82
Page 12

Amendment
30

page ~~11~~ 20

line 10²³ ADD AFTER -

"of this act" unless the required actions concerning allotments have not been substantially complied with in which case this section does not apply.

NO

NO

Amendment
31

page ~~11~~ 20

line ~~14~~ 27 ADD AFTER -

"of this act". Unless the required actions concerning allotments have not been substantially complied with in which case this section does not apply.

NO

NO

by Docket

AMENDMENT to CSSB 796 F

In sec. 41.20.507 (d), delete the period and insert a comma and add the following:

"subject to the provisions of section 2 of the Bald Eagle Protection Act, 16 U.S.C. 668a, which authorize the Secretary of the Interior to permit the taking of bald eagles for the religious purposes of Indian tribes.

adopted



Alaska State Legislature

SENATE Resources Committee

POUCH
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

TO: Billy Berrier
Director Legal Services

DATE: 4/9/82

ATTN: Richard Bradley

FROM:

Bettye Fahrenkamp
Chairman

RE: Work Draft Committee
Substitute - SSSB 796

I would appreciate you drafting a work draft Committee Substitute for SSSB 796 incorporating the following changes:

Page 1, line 11:

Spacing needed between the words "sectionsto"

Page 1, line 27:

After the word "are" insert "closed to multiple use in conformity with AS 38.05.300 and are"

Page 1, line 29:

Designate a number for "ESTABLISHMENT AND MANAGEMENT"

Page 2, line 1:

Section (a) should read:

"Subject to valid existing rights, land and water presently owned by the state and all land and water acquired by the state in the future lying within the boundaries described in the following parcels shall be entitled "Alaska Chilkat Bald Eagle Preserve" and are assigned to the Department of Natural Resources for control, development and maintenance"

This will be followed by the parcel descriptions to be submitted early next week.

Page 2, line 10:

After the work "Preserve" insert a " . "

Delete the Word "and"

Capitalize the "the" that follows "and" above.

Delete the word "State" and insert "commissioner of the department of natural resources"

Page 2, line 11:

Delete the word "within"

After the word "land" insert "for the purpose of expanding or any other purpose"

Page 2, line 13:

Delete "and" and insert "or" in its place

Page 2, line 15:

After the word "all" insert "lands described"

Page 2, line 16:

Before the word "approved" insert "in"

After the word "approved" insert "or application for"

Page 3, line 3:

After the word "administration" insert "of laws that govern the conservation of Bald Eagles."

Delete the words "of the Bald"

Page 3, line 4, 5 and 6: Delete.

Page 3, line 7:

Delete "natural habitat of the"

Page 3, lines 13, 14, 15 and 16:

Dick you were to develop language regarding "non-fee" disposals.

Page 4, line 27:

Delete "shall" and insert "may" in its place.

Page 5, line 3:

There needs to be space between the words "Act.The"

Page 5, line 7:

Delete the word "No"

Page 5, line 8:

Delete the words "state, federal or private study of the preserve or its resources"

Insert in its place "The State shall not participate or cooperate with any federal or private study of the Preserve or its resources"

Page 5, Line 25 and 26:

Delete and insert the following: "the borough mayor shall recommend to the Governor a resident of the Haines Borough representing commercial or industrial interest:"

Page 5, line 27:

After the word "Haines" insert "serving as an ex officio member;"

Page 5, line 28:

After the word "Haines" insert "serving as an ex officio member;"

Page 5, line 29:

After "Inc." insert "serving as an ex officio member;"

Page 6, line 5:

Delete "a representative of" and insert "the Commissioner of the Alaska Department of Fish and Game or a designee serving as an ex officio member;"

Page 6, line 8:

Delete "a representative of the Alaska Department of Natural Resources, Division of Forestry;

Insert "Director of the Division of Forestry, Alaska Department of Natural Resources or a designee serving as an ex officio member."

Page 6, line 10:

Delete "a representative of the Alaska Department of Natural Resources; Division of Parks."

Insert: "Director of the Division of Parks, Alaska Department of Natural Resources or a designee, serving as an ex officio member."

Page 6, line 19:

Delete "AS 41.15" and insert "AS 41.20" in its place.

Page 6, line 23:

Delete "substantive or procedural"

Page 7, line 2:

Delete "are encourage to" and insert "shall" in its place.

Page 7, line 1 starting with the words "The director" through line 6 - designate as subsection "(b)"

Page 7, line 7 - 15:

Move to "DECLARATION OF PURPOSE" page 1.

Page 7, lines 16 - 17:

Move to page 11, line 6 and change the wording to read "AS 16.20.230(8) is repealed."

Page 7, line 23:

Delete "acquire land and water areas" and insert "all land and water acquired by the state"

Page 8, line 2:

After the word "management" insert ", control, development, and maintenance"

Page 8, line 6:

Delete "the state-owned or"

Page 8, lines 7 - 9

Delete

Page 8, line 10:

Delete "the Office of the Commissioner of Natural Resources,"

Page 8, starting at the end of line 6:

Insert "land and water presently owned by the state and all land and water acquired by the state in the future"

Page 8, line 11:

After the word "area" insert "described as follows"

-- Parcels will be listed later. --

Page 8, line 11:

Delete "and assigned"

Page 8, line 12 - 13:

Delete

Page 8, line 17:

Delete "state" and insert "commissioner of the department of natural resources"

Page 8, line 17:

After the word "land" insert "for the purpose of expanding"

Page 8, line 22:

After the word "all" insert "lands described in"

After the word "approved" insert "or applications for"

Page 9, line 8 - 29:

Rework to outline the department shall develop a management plan for the Haines State Forest Resource Management Area. This section will probably need to be renumbered, etc.

Page 10, line 15:

Delete "existing"

Page 10, line 29:

Delete

Page 11, line 1:

Delete "(a)" and insert "(h)"

Page 11, line 6:

Insert "AS 16.20.230(8) is repealed."

If you have any questions please contact Resa King at 465-3834. When the draft is completed please return to Room 211 Capitol Building. If possible I would like the draft completed and returned by the morning of Tuesday April 13th for use at an early afternoon meeting.

Attachments

Introduced: 3/4/82
Referred: Resources and
Finance

1 IN THE SENATE

BY RAY

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 796

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the management of state-owned
7 land in the Haines area, establishing the Alaska Chilkat
8 Bald Eagle Preserve and the Haines State Forest Resource
9 Management Area"

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

11 * Section 1. AS 41.20 is amended by adding new sectionsto read:

12 ARTICLE 16. ALASKA CHILKAT BALD EAGLE PRESERVE.

13 Section 41.20.550. DECLARATION OF PURPOSE. The purpose of
14 AS 41.20.550 - 41.20.560 is to establish the state-owned land and water
15 described in AS 41.20.550(a) as the Alaska Chilkat Bald Eagle Preserve
16 as part of the state park system. The primary purpose of establishing
17 the Alaska Chilkat Bald Eagle Preserve is to protect and perpetuate the
18 the Chilkat bald eagles and their essential habitats within the preserve
19 in recognition of their statewide, nationally and internationally
20 significant values, and to protect the natural salmon spawning and
21 rearing areas of the Chilkat and Chilkoot River systems within the
22 preserve. The preserve is also established to provide continued
23 opportunities for research, study and enjoyment of bald eagles and other
24 wildlife and to provide for other public uses consistent with the primary
25 purpose for which the Alaska Chilkat Bald Eagle Preserve is established.
26 The statelands and waters described in section 550(a) of this chapter
27 are dedicated as a special purpose site pursuant to Article VIII, section
28 ^{↑ Closed to multiple use in conformity with AS 38.05.310 and are}
7 of the Alaska Constitution.

29 *Number* ESTABLISHMENT AND MANAGEMENT

1 by the Board of Fisheries or the Board of Game. The Department of Fish
2 and Game and the Department of Natural Resources shall cooperate with
3 the U. S. Fish and Wildlife Service in its administration of ^{laws that govern the conservation of} the Bald
4 Eagle. ~~Protection Act of 1940 and other appropriate laws that govern the~~
5 ~~conservation of bald eagles or implement international treaty obliga-~~
6 ~~tions of the United States.~~

7 (f) The ~~natural habitat of the~~ Alaska Chilkat Bald Eagle Preserve
8 shall be managed by the Department of Natural Resources to sustain the
9 eagle and salmon populations and other wildlife in perpetuity in accor-
10 dance with applicable law and to insure to the maximum extent practi-
11 cable, water quality and necessary water quantity in accordance with
12 applicable law.

13 (g) The State land and water described in (a) of this section are
14 closed to mineral entry and location under AS 38.05.135 - 38.05.180,
15 commercial harvest of timber, conveyance of fee title under State land ^{non-fee disposals}
16 disposal laws and future municipal selections under state law. *Credley*

17 (h) Continued opportunities for traditional uses of the area at
18 levels and by methods and means that are compatible with the protection
19 of the bald eagle population are guaranteed. These historically com-
20 patible uses include but are not limited to hunting, trapping, fishing,
21 berry picking, other subsistence and recreational uses, operation of
22 motorized vehicles and the harvesting of personal use firewood. The
23 level and method or means of traditional use shall be permitted to
24 continue subject to reasonable regulation unless the director of the
25 Division of Parks, after consultation with the Advisory Council, makes a
26 finding that the level or method and means of use is causing significant
27 resource damage which is inconsistent with the primary purposes of
28 AS 41.20.550 - 41.20.560. The director of the division of parks shall
29 hold public hearings in Haines and Klukwan before restricting a tradi-

Introduced: 3/4/82
Referred: Resources and
Finance

1 IN THE SENATE

BY RAY

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 796

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the management of state-owned
7 land in the Haines area, establishing the Alaska Chilkat
8 Bald Eagle Preserve and the Haines State Forest Resource
9 Management Area"

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

11 * Section 1. AS 41.20 is amended by adding new section to read:

12 ARTICLE 16. ALASKA CHILKAT BALD EAGLE PRESERVE.

13 Section 41.20.550. DECLARATION OF PURPOSE. The purpose of
14 AS 41.20.550 - 41.20.560 is to establish the state-owned land and water
15 described in AS 41.20.550(a) as the Alaska Chilkat Bald Eagle Preserve
16 as part of the state park system. The primary purpose of establishing
17 the Alaska Chilkat Bald Eagle Preserve is to protect and perpetuate the
18 the Chilkat bald eagles and their essential habitats within the preserve
19 in recognition of their statewide, nationally and internationally
20 significant values, and to protect the natural salmon spawning and
21 rearing areas of the Chilkat and Chilkoot River systems within the
22 preserve. The preserve is also established to provide continued
23 opportunities for research, study and enjoyment of bald eagles and other
24 wildlife and to provide for other public uses consistent with the primary
25 purpose for which the Alaska Chilkat Bald Eagle Preserve is established.
26 The statelands and waters described in section 550(a) of this chapter
27 are dedicated as a special purpose site pursuant to Article VIII, section
28 7 of the Alaska Constitution. *↑ Closed to multiple use in conformity with AS 38.05.310 and all*

29 *Number* ESTABLISHMENT AND MANAGEMENT

1 (a) Subject to valid existing rights, ^{land presently owned by} ~~the state-owned or acquired~~
2 ~~the state and all land & water acquired by the state in the future~~
3 ~~land and water lying within boundaries and depicted on a map entitled~~
4 ~~lying within the boundaries described in the following parcels~~
5 ~~"Alaska Chilkat Bald Eagle Preserve," and dated February, 1982, and on~~
6 ~~shall be entitled "Alaska Chilkat Bald Eagle Preserve."~~
7 ~~file in the office of the Commissioner of Natural Resources, and hereby~~

8 ~~designated as the Alaska Chilkat Bald Eagle Preserve and assigned to the~~
9 ~~Department of Natural Resources for control, development and maintenance.~~

Parcel descriptions

10 (b) Private land, existing selections by the Haines Borough under
11 State law, and existing transportation and utility corridors lying
12 within the parcels described in (a) of this section are excluded from
13 the Alaska Chilkat Bald Eagle Preserve, ^{Commissioner of the Dept. N. Res.} and ~~The State~~ may not acquire
14 private land ^{For the purpose of expanding or any other purpose} within the Alaska Chilkat Bald Eagle Preserve by eminent
15 domain.

16 (c) Approved ^{or} ~~and~~ pending Native allotment applications located
17 within or partially within the Alaska Chilkat Bald Eagle Preserve shall
18 not be adversely affected by the establishment of the preserve, and all ^{lands described}
19 approved ^{or application for} allotments shall be treated as private land under AS 41.20.550 -
20 560.

21 (d) The Department of Fish and Game is responsible for the manage-
22 ment of fish and game resources in the Alaska Chilkat Bald Eagle Preserve
23 under applicable law and consistent with the purposes of AS 41.20.550 -
24 41.20.560.

25 (e) The Department of Natural Resources shall consult with the
26 Department of Fish and Game, the U. S. Fish and Wildlife Service, and
27 the Advisory Council established by this Act before adoption of reason-
28 able regulations governing public use and protection of the Alaska
29 Chilkat Bald Eagle Preserve. The Department of Fish and Game shall
consult with the Department of Natural Resources and the Bald Eagle
Preserve Advisory Council in proposing regulations governing fish and
game management in the Alaska Chilkat Bald Eagle Preserve for adoption

1 by the Board of Fisheries or the Board of Game. The Department of Fish
2 and Game and the Department of Natural Resources shall cooperate with
3 the U. S. Fish and Wildlife Service in its administration of the Bald
4 Eagle. ~~Protection Act of 1940 and other appropriate laws that govern the~~
5 ~~conservation of bald eagles or implement international treaty obliga-~~
6 ~~tions of the United States.~~ *laws that govern the conservation of*

7 (f) The ~~natural habitat of the~~ Alaska Chilkat Bald Eagle Preserve
8 shall be managed by the Department of Natural Resources to sustain the
9 eagle and salmon populations and other wildlife in perpetuity in accor-
10 dance with applicable law and to insure to the maximum extent practi-
11 cable, water quality and necessary water quantity in accordance with
12 applicable law.

13 (g) The State land and water described in (a) of this section are
14 closed to mineral entry and location under AS 38.05.135 - 38.05.280,
15 commercial harvest of timber, conveyance of fee title under State land
16 disposal laws and future municipal selections under state law. *mon-fee disposal*

17 (h) Continued opportunities for traditional uses of the area at
18 levels and by methods and means that are compatible with the protection
19 of the bald eagle population are guaranteed. These historically com-
20 patible uses include but are not limited to hunting, trapping, fishing,
21 berry picking, other subsistence and recreational uses, operation of
22 motorized vehicles and the harvesting of personal use firewood. The
23 level and method or means of traditional use shall be permitted to
24 continue subject to reasonable regulation unless the director of the
25 Division of Parks, after consultation with the Advisory Council, makes a
26 finding that the level or method and means of use is causing significant
27 resource damage which is inconsistent with the primary purposes of
28 AS 41.20.550 - 41.20.560. The director of the division of parks shall
29 hold public hearings in Haines and Klukwan before restricting a tradi-

1 tional use permitted under this section.

2 (i) If privately owned land, valid mining claims, existing mineral
3 leases, subsurface rights on private lands, or other valid occupancies,
4 are surrounded by State land of the Alaska Chilkat Bald Eagle Preserve
5 or if privately owned land, valid mining claims, subsurface rights, or
6 other valid occupancies or state-owned or federally owned land not
7 designated as part of the Alaska Chilkat Bald Eagle Preserve does not
8 have reasonable, timely, and economically feasible access for economic
9 and other purposes by means other than crossing land designated as part
10 of the Alaska Chilkat Bald Eagle Preserve in (a) of this section, the
11 director of the division of parks shall grant the landowner, holder of
12 valid mining claims, mineral lease or subsurface right, occupant or
13 government agency the rights necessary to assure reasonable, timely and
14 economically feasible access for economic and other purposes. This
15 right of access shall be subject to reasonable regulation and stipula-
16 tions established by the director of the division of parks in consul-
17 tation with the Advisory Committee in furtherance of the purposes and to
18 protect the values for which the Alaska Chilkat Bald Eagle Preserve was
19 established and to minimize adverse environmental impacts in the pre-
20 serve. The director of the division of parks shall give favorable
21 consideration to applications for utility rights of way that are com-
22 patible with the primary purpose of the Alaska Chilkat Bald Eagle
23 Preserve.

24 (j) The director of the division of parks and the Alaska Chilkat
25 Bald Eagle Local Advisory Council established under AS 41.20.560, in
26 consultation with the U. S. Fish and Wildlife Service and the Alaska
27 Department of Fish and Game, ^{may} shall use information gained through the
28 Haines-Klukwan Cooperative resource studies and other pertinent sources
29 in the development of the management plan for the Alaska Chilkat Bald

1 Eagle Preserve and in decisions affecting the management and adminis-
2 tration of the preserve. The Management Plan shall be developed and
3 implemented within two years of the effective date of this Act.The
4 director of the division of parks and the Advisory Council shall in-
5 vestigate the need for additional research to increase knowledge and
6 understanding of the natural resources of the area and to enhance
7 effective management of the Alaska Chilkat Bald Eagle Preserve. ~~The~~
8 ~~The state shall not participate or cooperate with any federal or~~
9 ~~state, federal or private study of the preserve or its resources for the~~
10 ~~private study of the preserve or its resource~~
11 single purpose of adding or deleting areas from the preserve shall be
12 conducted without 90 days prior notice to and timely review by the
13 council except that the director may certify to the council that a study
14 is required by an emergency which necessitates immediate action or a
15 shorter period of review.

16 Sec. 41.20.56C. ALASKA CHILKAT BALD EAGLE PRESERVE LOCAL ADVISORY
17 COUNCIL.

18 (a) An 11 member local advisory council is hereby established.
19 The members of the local advisory council shall be appointed by the
20 governor. Members of the local advisory council are entitled to per
21 diem and travel expenses authorized for members of state boards under
22 AS 39.20.180.

23 (b) The governor shall appoint individuals to the Advisory Council
24 representing the following interests;

25 (.) a resident of the Haines Borough representing a conserva-
26 tion organization;

27 (2) ~~a resident of the Haines Borough representing commercial~~
28 ~~or industrial interests nominated by the borough mayor;~~ *the borough mayor shall recommend, to the Governor, a*
29 *resident of Haines representing commercial or industrial interest;*

(3) the Mayor of the City of Haines; *serving as an ex officio member*

(4) the Mayor of the Borough of Haines; " " " " "

(5) a representative nominated by Klukwan, Inc.; " " " "

1 (6) the President of the IRA Council of the Chilkat Indian
2 Village;

3 (7) a representative nominated by the Upper Lynn Canal Local
4 Fish and Game Advisory Council;

5 (8) ~~a representative of~~ *the commissioner of* the Alaska Department of Fish and
6 ~~Game;~~ *or a designee serving as an ex officio member;*

7 (9) a representative of the U. S. Fish and Wildlife Service; *Faucher, Alaska*

8 (10) ~~a representative of the Alaska Department of Natural~~ *the Commissioner Director of the Division of Parks, Alaska*
9 ~~Resources, Division of Forestry,~~ *Department of Natural Resources or a designee serving as an ex officio*
10 ~~Resources or a designee serving as an ex officio member;~~ *Director of the Division of Parks, Alaska Dept. of Natural*

11 (11) ~~a representative of the Alaska Department of Natural~~ *Resources or a designee serving as an ex officio member;*
12 ~~Resources, Division of Parks.~~

13 (c) All appointments to the local advisory council shall be for a
14 term of two years.

15 (d) The Alaska Chilkat Bald Eagle Preserve Advisory Council shall
16 assist the Department of Natural Resources in the development and
17 monitoring of the management plan for the Alaska Chilkat Bald Eagle
18 Preserve. The management plan shall be presented at public hearings in
19 Haines and Klukwan before approval and implementation by the department.

20 AS 41.25.570 MISCELLANEOUS PROVISIONS.

21 (a) Notwithstanding any other provision of this Act or law,
22 establishment by section 550 of this Chapter of the Alaska Chilkat Bald
23 Eagle Preserve shall not be deemed to enlarge, diminish, add to, or
24 waive any ~~substantive or procedural~~ requirements otherwise applicable to
25 the management or use of the adjacent lands of the Haines State Forest
26 Resource Management Area, or other State or private land. Any and all
27 activities allowed under applicable law on lands adjacent to the Alaska
28 Chilkat Bald Eagle Preserve, including but not limited to timber harvest,
29 mining, other resource development, or recreation shall be permitted on
adjacent lands so long as these activities are conducted in compliance

(4)
1 with applicable law. [The director of the division of parks and the
2 director of the division of forestry ~~are encouraged to~~ ^{shall} consult with one
3 another in the preparation of the management plan so as to promote
4 effective, efficient, and coordinated administration of the Forest
5 Resource Management Area and Preserve for the values for which each is
6 established.]

7 (b) It is the intent of the Alaska Legislature in enacting this
8 legislation to provide sufficient protection for the purposes for which
9 the Alaska Chilkat Bald Eagle Preserve is established; accordingly, the
10 establishment of the Alaska Chilkat Bald Eagle Preserve represents a
11 proper balance between the reservation of State public domain lands and
12 waters for bald eagle preserve purposes and those State lands more
13 appropriate for multiple use, and thus the Alaska Legislature believes
14 that the need for future legislation expanding or contracting the
15 boundary of the Alaska Chilkat Bald Eagle Preserve is unnecessary.

16 [(c) The Chilkat River Fish and Game Critical Habitat Area estab-
17 lished by AS 16.20.230(8) is hereby repealed.] ^{move} to page 11, line 6.
18 "AS 16.20.230(8) is repealed."

19 * Section 2. AS 41.15 is amended by adding new sections to read:

20 ARTICLE 3A. HAINES STATE FOREST RESOURCE MANAGEMENT AREA.

21 Sec. 41.15.500. HAINES STATE FOREST RESOURCE MANAGEMENT AREA. (a)

22 The purpose of AS 41.15.500 - 41.15.530 is to establish designated
23 state-owned or ~~acquired land and water areas~~ ^{all land & water acquired by the State} as the Haines State Forest
24 Resource Management Area. The primary purposes of the establishment of
25 the Haines State Forest Resource Management Area are the utilization,
26 perpetuation, conservation, and production of the land and water, in-
27 cluding but not limited to the use of renewable and non-renewable re-
28 sources through multiple-use management, and the continuation of other
29 beneficial uses including traditional uses and other recreational

1 activities.

control, development and maintenance

2 (b) The responsibility for the management of the Haines State
3 Forest Resource Management Area established under AS 41.15.500 - 41.15.-
4 530 is assigned to the Department of Natural Resources.

5 Sec. 41.15.510. BOUNDARIES OF HAINES STATE FOREST RESOURCE MANAGE-

6 *land & water presently owned*
7 *by the state & all land & water acquired by the state in the future*
8 ~~MENT AREA. (a) Subject to valid existing rights, the state-owned or~~
9 ~~acquired land and water located above the mean high tide line and lying~~
10 ~~within the boundaries and depicted on a map entitled "Haines State~~
11 ~~Forest Resource Management Area" and dated February, 1982 and on file in~~
12 ~~the Office of the Commissioner of Natural Resources, are hereby desig-~~
13 ~~nated as the Haines State Forest Resource Management Area and assigned~~
14 ~~to Department of Natural Resources for control, development and main-~~
15 ~~tenance.~~

16 (b) Private land, existing transportation corridors, and borough
17 selection within the Haines State Forest Resource Management Area are
18 excluded from the Haines State Forest Resource Management Area, and the
19 *Commissioner of the department of natural resources*
20 *for purpose of expanding*
21 ~~State~~ may not acquire private land within the Haines State Forest
22 Resource Management Area by eminent domain.

23 (c) Approved and pending Native allotment applications located
24 within or partially within the Haines State Forest Resource Management
25 Area shall not be adversely affected by the establishment of the Haines
26 State Forest Resource Management Area and all *lands described in* approved allotments shall
27 be treated as private land under this title. *on applications for*

28 (d) The Division of Forestry shall consult with the Division of
29 Parks, the Department of Fish and Game, and the Alaska Chilkat Bald
Eagle Preserve Local Advisory Council to promote effective, efficient,
and coordinated administration of the Forest and the Preserve for the
values for which each is established.

(e) To the extent practicable, resource studies undertaken by the

1 Department shall be designed to benefit the management and administration
2 of both the Haines State Forest Resource Management Area and the Alaska
3 Chilkat Bald Eagle Preserve.

4 (f) The establishment of the Haines State Forest Resource Manage-
5 ment Area shall have no effect on the terms and conditions of any exist-
6 ing permits or contracts involving use of the land, water, or other
7 resources of the Forest.

8 Sec. 41.15.520. MULTIPLE-USE MANAGEMENT. (a) Land within the
9 Haines State Forest Resource Management Area shall be managed under the
10 principles of multiple use and sustained yield as defined by AS 38.-
11 04.910 and pursuant to the Forest Resources and Practices Act and other
12 applicable laws and pursuant to a management plan prepared by the
13 Department of Natural Resources. This plan may not be adopted or
14 revised without prior review by the Board of Forestry or without public
15 hearings held in the Haines Borough. The management plan shall be
16 adopted and implemented within two years after enactment of this
17 legislation. The management plan should be based on a current opera-
18 tional level inventory completed within the last ten years and updated
19 as future inventory information becomes available.

20 (b) The Department of Natural Resources shall periodically review
21 the management plan for the Haines State Forest Resource Management Area
22 under AS 41.15.510. The Haines-Skagway Area Land Use Plan adopted by
23 the Department of Natural Resources in 1979 shall be used as the basis
24 for preparation of the management plan for the Haines State Forest
25 Resource Management Area. Prior to approval of the management plan
26 prepared pursuant to AS 41.15., management of the Haines State Forest
27 Resource Management Area shall be conducted pursuant to the land use
28 allocations and their appropriate management provisions of the Haines-
29 Skagway Area Land Use Plan.

1 (c) A copy of a management plan and any revision to it prepared by
2 the Department of Natural Resources, reviewed by the Board of Forestry
3 and adopted by the Department after public hearings required under (a)
4 of this section shall be provided to the Legislature within 30 days of
5 its adoption or revision or within the first 10 days of the first
6 session of the Legislature to convene after its adoption or revision.

7 (d) The Department of Fish and Game is responsible for the manage-
8 ment of fish and game resources in the Haines State Forest Resource
9 Management Area under applicable law and in a manner consistent with the
10 purposes and provisions of this section.

11 (e) The control of highway access and roadside structures within
12 the Haines State Forest Resource Management Area is the responsibility
13 of the Department of Natural Resources except that the Department of
14 Transportation and Public Facilities is responsible for the repair and
15 maintenance of all ~~existing~~ public roads in the Haines State Forest
16 Resource Management Area.

17 (f) The state land and water described in section 510(a) of this
18 Act are closed to conveyance of fee title under state land disposal laws
19 and to future municipal selections under state laws.

20 (g) The Department of Natural Resources shall consult with the
21 Department of Fish and Game during preparation of a management plan
22 under (a, and (b) of this section and formulation of regulations
23 governing the public use of the Haines State Forest Resource Management
24 Area. The Department of Fish and Game shall consult with the Department
25 of Natural Resources before adoption of regulations governing fish and
26 wildlife management in the Haines State Forest Resource Management Area.
27 Regulations may not be adopted by either department without prior review
28 at public hearings.

29 ~~Sec. 41.15.530. COOPERATIVE MANAGEMENT AGREEMENT.~~

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(h)

~~(a)~~ The Department of Natural Resources may enter into cooperative management agreements with persons who hold title to or have a valid entry on land within the boundaries of the Haines State Forest Resource Management Area or adjoining the boundaries of the Haines State Forest Resource Management Area.

AS 16.20.230(f) is repealed



Alaska State Legislature

SENATE Resources Committee

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

TO: Senate Resources Committee

FROM: Senate Resources Committee Staff

RE: SSSB 796
Providing for the management of state owned land
in the Haines area, establishing the Alaska
Chilkat Bald Eagle Preserve and the Haines State
Forest Resource Management Area.

DATE: April 13, 1982

Please find attached further background information,
just received today, outlining points raised during
the recent Committee hearing on SSSB 796.

This bill is scheduled for hearing Wednesday,
April 14, 1982 at 1:30 p.m. in the Beltz Room.



Alaska State Legislature

SENATE Resources Committee

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

TO: Senate Resources Committee
FROM: Senate Resources Committee Staff
RF: Committee Meeting, 4/14/82
DATE: April 12, 1982

Please find attached background information for
Wednesday's hearing on the following bills:

- SB 794 Establishing certain areas as units of the
Alaska Marine Park System.
- SB 795 Relating to outdoor recreation and historic
projects.
- SSSB 796 Providing for the management of state owned
land in the Haines area, establishing the
Alaska Chilkat Bald Eagle Preserve and the
Haines State Forest Resource Management Area.
- SB 872 Relating to sanitation, sanitary practices,
and quality assurance in the seafood
processing industry.

The meeting will be held at 1:30 p.m. in the Beltz Room.

SB 796



Alaska State Legislature

SENATE Resources Committee

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

TO: Senate Finance Committee
Members

DATE: 4/19/82

FROM: Bettye Fahrenkamp
Chairman

RE: CSSSSB 796
Background Information

CSSSSB 796 - Providing for the management of state owned land in the Haines area, establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area - has passed out of the Resources Committee and has a further referral to the Finance Committee.

Attached for your information is background materials on the bill.

Attachments

MEMORANDUM

State of Alaska

TO: Reed Stoops, Director
Division of Research & Development
Department of Natural Resources

DATE: April 20, 1982

FILE NO:

TELEPHONE NO: 465-2400

FROM: Frank Ruby Planner V
Division of Research & Development
Department of Natural Resources

SUBJECT: Chilkat Bald Eagle
Preserve Legal
Description

The Division of Technical Services did a final proofing of the legal description for the Alaska Chilkat Bald Eagle Preserve and found one minor error. They also found several places where using an existing survey would be much clearer than an aliquot part description. The attached legal description contains the corrected legal description. A check mark indicates where a change was made.

Attachment

4/19/82

PROPOSED ALASKA BALD EAGLE PRESERVE
LEGAL DESCRIPTION

Township 26 South, Range 55 East, Copper River Meridian

- Section 12: that portion within USS 3708;
- Section 13;
- Section 23: SE1/4NE1/4, NE1/4SE1/4, E1/2NW1/4SE1/4, S1/2SE1/4;
- Sections 24 and 25;
- Section 26: E1/2;
- Section 33: SE1/4SE1/4SE1/4;
- Section 34: E1/2NE1/4, E1/2SW1/4NE1/4, SE1/4NE1/4SW1/4, E1/2SW1/4SW1/4, SW1/4SW1/4SW1/4, SE1/4SW1/4, SE1/4;
- Section 35;
- Section 36: NE1/4NW1/4NE1/4, W1/2W1/2NE1/4, NW1/4, N1/2SW1/4, N1/2SW1/4SW1/4, SW1/4SW1/4SW1/4, NW1/4SE1/4SW1/4, NW1/4SE1/4.

Township 26 South, Range 56 East, Copper River Meridian

- Section 7: SW1/4NE1/4, S1/2NW1/4, S1/2;
- Section 8: SE1/4SW1/4NW1/4, SE1/4NW1/4, SW1/4, that portion of the S1/2NE1/4 within USS 3708;
- Section 17: W1/2NW1/4;
- Section 18;
- Section 19: W1/2, SW1/4SE1/4;
- Section 30: NE1/4NW1/4NE1/4, W1/2NW1/4NE1/4, NW1/4, W1/2SW1/4.

Township 27 South, Range 55 East, Copper River Meridian

- Section 2: NW1/4, W1/2NE1/4SW1/4, NW1/4SW1/4, N1/2SW1/4SW1/4, SW1/4SW1/4SW1/4, NW1/4SE1/4SW1/4, except USS 3744;
- Section 3;
- Section 4: NE1/4NE1/4NE1/4, S1/2NE1/4NE1/4, E1/2SW1/4NE1/4, SE1/4NE1/4, E1/2SE1/4SW1/4, SE1/4;
- Section 8: SE1/4SE1/4SW1/4, S1/2S1/2SE1/4, N1/2SE1/4SE1/4;
- Section 9: E1/2, E1/2NW1/4, N1/2NE1/4SW1/4, SE1/4NE1/4SW1/4, NW1/4SW1/4SW1/4, S1/2S1/2SW1/4;
- Section 10: W1/2W1/2NE1/4, W1/2;
- Section 15: NW1/4NW1/4NE1/4, S1/2NW1/4NE1/4, SW1/4NE1/4, W1/2, W1/2SE1/4;
- Section 16: E1/2, NW1/4, N1/2SW1/4, NW1/4SE1/4SW1/4, E1/2SE1/4SW1/4;
- Section 17: N1/2NE1/4, NE1/4SW1/4NE1/4, SE1/4NE1/4, E1/2NE1/4NW1/4, N1/2NE1/4SE1/4, SE1/4NE1/4SE1/4;
- Section 21: E1/2, E1/2E1/2NW1/4, SW1/4SE1/4NW1/4, E1/2SW1/4, SE1/4SW1/4SW1/4;
- Section 22: SW1/4NE1/4NE1/4, W1/2E1/2, W1/2SE1/4NE1/4, W1/2, W1/2E1/2SE1/4;
- Section 26: NW1/4NW1/4NW1/4, S1/2NW1/4NW1/4, SW1/4NW1/4, W1/2E1/2SW1/4, W1/2SW1/4;
- Section 27;
- Section 28: E1/2, E1/2W1/2, E1/2W1/2W1/2;
- Section 33: N1/2NE1/4, E1/2SW1/4NE1/4, NW1/4SW1/4NE1/4, SE1/4NE1/4, E1/2NE1/4NW1/4, NE1/4SE1/4, E1/2NW1/4SE1/4, N1/2SE1/4SE1/4, SE1/4SE1/4SE1/4;
- Section 34;
- Section 35: NW1/4NW1/4NE1/4, S1/2NW1/4NE1/4, SW1/4NE1/4, NW1/4SE1/4NE1/4, S1/2SE1/4NE1/4, W1/2, SE1/4;
- Section 36: W1/2SW1/4SW1/4.

Township 28 South, Range 55 East, Copper River Meridian

- Section 1: S1/2SW1/4NW1/4, SW1/4;
- Section 2;
- Section 3: NE1/4, N1/2NW1/4, N1/2SW1/4NW1/4, SE1/4NW1/4,
NE1/4NE1/4SW1/4, N1/2SE1/4, SE1/4SE1/4;
- Section 4: E1/2NE1/4NE1/4;
- Section 10: that portion of Mosquito Lake;
- Section 11: N1/2, N1/2SE1/4, NE1/4SW1/4SE1/4, SE1/4SE1/4, except USS
3431;
- Section 12;
- Section 13: E1/2, NE1/4NW1/4, E1/2NW1/4NW1/4, NW1/4NW1/4NW1/4,
NW1/4SE1/4NW1/4, E1/2SE1/4NW1/4;
- Section 15: that portion of Mosquito Lake;
- Section 19: Lot 13;
- Section 24: E1/2E1/2, NE1/4NW1/4NE1/4;
- Section 25: Lots 9 through 11 and 16;
- Section 26: that portion of Lot 5 and NE1/4NW1/4 south of the Haines
Highway and Lots 1, 12 and 17;
- Section 27: Lots 5 through 8, 10, 13, 18, 19 and 22;
- ✓ Section 28, except S1/2S1/2, the south 660 feet of Lots 5 through 7 and
that portion north of the Haines Highway;
- Section 29, except S1/2S1/2S1/2, NE1/4SE1/4SE1/4 and Lots 9, 14, 15 and
18;
- ✓ Section 30: Lot 11, Lot 6 except the south 660 feet;
- Section 33: S1/2SE1/4SE1/4;
- Section 34: S1/2S1/2S1/2;
- Section 35: Lot 1;
- ✓ Section 36, except SW1/4NW1/4, S1/2 and the south 660 feet of Lots 3 and
4.

Township 28 South; Range 56 East; Copper River Meridian

Section 7: SW1/4NW1/4NW1/4, SW1/4NW1/4, SW1/4SE1/4NW1/4,
W1/2NE1/4SW1/4, SE1/4NE1/4SW1/4, NW1/4SW1/4, S1/2SW1/4,
SW1/4SW1/4SE1/4;

Section 17: W1/2SW1/4SW1/4, SE1/4SW1/4SW1/4;

Section 18: W1/2W1/2NE1/4, E1/2SW1/4NE1/4, SW1/4SE1/4NE1/4, W1/2, SE1/4;

Section 19;

Section 20: W1/2W1/2;

Section 29: Lots 8 through 11;

Section 30, except Lots 1, 4, 5, 8, 15 through 17 and the NE1/4SW1/4;

Section 31;

Section 32, except USS 991, USS 2455 and Lots 1, 2 and 24;

Section 33: S1/2 except USS 2455 and Lots 18 through 21;

✓ Section 34: Lots 1, 2, S1/2NE1/4SW1/4, W1/2SW1/4SE1/4, SE1/4SW1/4SE1/4.

Township 28 South, Range 57 East, Copper River Meridian

Section 22: NE1/4SW1/4, E1/2SE1/4SW1/4, W1/2NW1/4SE1/4, SW1/4SE1/4,
NW1/4SE1/4SE1/4, S1/2SE1/4SE1/4;

Section 26: W1/2SW1/4NW1/4, W1/2W1/2SW1/4;

Section 27: E1/2E1/2, N1/2NW1/4NE1/4, SE1/4NW1/4NE1/4;

Section 34: NE1/4NE1/4, NE1/4SE1/4NE1/4;

Section 35: SW1/4SW1/4NE1/4, NW1/4NW1/4NW1/4, S1/2NW1/4NW1/4, S1/2NW1/4,
E1/2SW1/4, NW1/4NW1/4SE1/4, S1/2NW1/4SE1/4, S1/2SE1/4,
SW1/4NE1/4SE1/4.

All of the above are subject to federal power site
withdrawals.

Township 29 South, Range 55 East, Copper River Meridian

Section 1: S1/2NE1/4NE1/4, E1/2SW1/4NE1/4, N1/2SE1/4NE1/4,
SW1/4SE1/4NE1/4, NW1/4NE1/4SE1/4, NE1/4NW1/4SE1/4.

Township 29 South, Range 56 East, Copper River Meridian

Section 1;

Section 2: N1/2NE1/4, E1/2SE1/4NE1/4, NE1/4NW1/4, E1/2NE1/4SE1/4,
NE1/4SE1/4SE1/4;

Section 4: W1/2NW1/4, W1/2SE1/4NW1/4, SE1/4SE1/4NW1/4, SW1/4,
W1/2NW1/4SE1/4, SE1/4NW1/4SE1/4, SW1/4SE1/4, W1/2SE1/4SE1/4,
SE1/4SE1/4SE1/4;

Section 5: E1/2, N1/2NW1/4, SE1/4NE1/4SW1/4, E1/2SE1/4SW1/4;

Section 6: N1/2N1/2NE1/4, NE1/4NE1/4NW1/4, S1/2NE1/4NW1/4,
S1/2NW1/4NW1/4, N1/2SW1/4NW1/4, NW1/4SE1/4NW1/4;

Section 8, except SW1/4SW1/4 and S1/2SE1/4SW1/4;

Section 9;

Section 10: S1/2S1/2NE1/4, SW1/4NE1/4NW1/4, NW1/4NW1/4, S1/2NW1/4, S1/2

Section 11: S1/2NE1/4, S1/2S1/2NW1/4, NE1/4SW1/4NW1/4, N1/2SE1/4NW1/4,
S1/2;

Sections 12, 13, 14;

Section 15: N1/2, N1/2N1/2SW1/4, E1/2SE1/4, NW1/4SE1/4, E1/2SW1/4SE1/4

Section 16: E1/2NE1/4, E1/2W1/2NE1/4, W1/2NW1/4NE1/4, NW1/4SW1/4NE1/4,
N1/2N1/2NW1/4, SE1/4NE1/4NW1/4, NE1/4SE1/4NW1/4;

Section 17: N1/2NE1/4NE1/4;

Section 22: N1/2NE1/4NE1/4, NE1/4NW1/4NE1/4;

Section 23: that portion of the N1/2NW1/4 lying west of Chilkat Lake

HAINES STATE FOREST RESOURCE MANAGEMENT AREA
Legal description of that portion west of Chilkoot Inlet.

All lands encompassed by:

U.S. Survey 3708, Tracts A, B and C; excluding U.S.M.S. 2206.

Those Mental Health Lands (MH-153) approved in the State Selection letter from BLM dated August 26, 1974, described as follows:

Beginning at corner No. 1 of this tract which is common to angle point No. 5 of U.S. Survey 3708, thence north $02^{\circ}13'51''$ west 52.639 chains along the survey line to corner No. 2 of this tract which is common to angle point No. 6 of U.S. Survey 3708, thence north $12^{\circ}01'18''$ west 13.346 chains to corner No. 3 of this tract which is common to angle point No. 7 of U.S. Survey 3708, thence north $53^{\circ}57'42''$ west 537.070 chains to corner No. 4 of this tract which is common to angle point No. 7-A of U.S. Survey 3708, thence south $0^{\circ}0'30''$ east 63.06 chains to corner No. 5 of this tract, thence south $53^{\circ}57'42''$ east 542.00 chains to corner No. 1 of this tract and angle point No. 5, U.S. Survey 3708, the point of beginning.

Township 28 South, Range 56 East, Copper River Meridian

Section 29: that portion of the N1/2 lying East of U.S.S. 3708;

Section 34: NW1/4, SE1/4.

Township 28 South, Range 57 East, Copper River Meridian

All.

Township 28 South, Range 58 East, Copper River Meridian

All.

Township 29 South, Range 57 East, Copper River Meridian

Section 36: That portion of Lots 1, 5, 6 and 10 lying east of U.S.S. 3708.

Township 29 South, Range 58 East, Copper River Meridian

All.

Township 29 South, Range 59 East, Copper River Meridian

All.

Township 29 South, Range 60 East, Copper River Meridian

Sections 19 through 36.

Township 30 South, Range 57 East, Copper River Meridian

Section 1: That portion of Lot 1 lying east of U.S.S. 3708.

Township 30 South, Range 58 East, Copper River Meridian

That portion lying east and south of U.S.S. 3708.

Township 30 South, Range 59 East, Copper River Meridian

Sections 1 through 10: All;
Section 12: All;
Sections 14 through 23: All;
Section 27: That portion lying west of the Haines
Corporation Boundary;
Sections 28 through 31: All;
Section 33: All.

Township 31 South, Range 58 East, Copper River Meridian

All.

Township 31 South, Range 59 East, Copper River Meridian

Sections 6 through 8: All;
Sections 16 through 22: All;
Sections 27 through 34: All.

Township 32 South, Range 59 East, Copper River Meridian

Sections 3 through 33: All;
Sections 34 through 36: That portion lying north of the
Tongass National Forest Boundary.

EXCEPTING therefrom the "Alaska Chilkat Bald Eagle Preserve" established
by AS 41.20.550.

PROPOSED ALASKA BALD EAGLE PRESERVE
LEGAL DESCRIPTION

Township 26 South, Range 55 East, Copper River Meridian

- Section 12: that portion within USS 3708;
- Section 13;
- Section 23: SE1/4NE1/4, NE1/4SE1/4, E1/2NW1/4SE1/4, S1/2SE1/4;
- Sections 24 and 25;
- Section 26: E1/2;
- Section 33: SE1/4SE1/4SE1/4;
- Section 34: E1/2NE1/4, E1/2SW1/4NE1/4, SE1/4NE1/4SW1/4, E1/2SW1/4SW1/4, SW1/4SW1/4SW1/4, SE1/4SW1/4, SE1/4;
- Section 35;
- Section 36: NE1/4NW1/4NE1/4, W1/2W1/2NE1/4, NW1/4, N1/2SW1/4, N1/2SW1/4SW1/4, SW1/4SW1/4 SW1/4, NW1/4SE1/4SW1/4, NW1/4SE1/4.

Township 26 South, Range 56 East, Copper River Meridian

- Section 7: SW1/4NE1/4, S1/2NW1/4, S1/2;
- Section 8: SE1/4SW1/4NW1/4, SE1/4NW1/4, SW1/4, that portion of the S1/2NE1/4 within USS 3708;
- Section 17: W1/2NW1/4;
- Section 18;
- Section 19: W1/2, SW1/4SE1/4;
- Section 30: NE1/4NW1/4NE1/4, W1/2NW1/4NE1/4, NW1/4, W1/2SW1/4.

Township 27 South, Range 55 East, Copper River Meridian

Section 2: NW1/4, W1/2NE1/4SW1/4, NW1/4SW1/4, N1/2SW1/4SW1/4, SW1/4SW1/4SW1/4, NW1/4SE1/4SW1/4, except USS 3744;

Section 3;

Section 4: NE1/4NE1/4NE1/4, S1/2NE1/4NE1/4, E1/2SW1/4NE1/4, SE1/4NE1/4, E1/2SE1/4SW1/4, SE1/4;

Section 8: SE1/4SE1/4SW1/4, S1/2S1/2SE1/4, N1/2SE1/4SE1/4;

Section 9: E1/2, E1/2NW1/4, N1/2NE1/4SW1/4, SE1/4NE1/4SW1/4, NW1/4SW1/4SW1/4, S1/2S1/2SW1/4;

Section 10: W1/2W1/2NE1/4, W1/2;

Section 15: NW1/4NW1/4NE1/4, S1/2NW1/4NE1/4, SW1/4NE1/4, W1/2, W1/2SE1/4;

Section 16: E1/2, NW1/4, N1/2SW1/4, NW1/4SE1/4SW1/4, E1/2SE1/4SW1/4;

Section 17: N1/2NE1/4, NE1/4SW1/4NE1/4, SE1/4NE1/4, E1/2NE1/4NW1/4, N1/2NE1/4SE1/4, SE1/4NE1/4SE1/4;

Section 21: E1/2, E1/2E1/2NW1/4, SW1/4SE1/4NW1/4, E1/2SW1/4, SE1/4SW1/4SW1/4;

Section 22: SW1/4NE1/4NE1/4, W1/2E1/2, W1/2SE1/4NE1/4, W1/2, W1/2E1/2SE1/4;

Section 26: NW1/4NW1/4NW1/4, S1/2NW1/4NW1/4, SW1/4NW1/4, W1/2E1/2SW1/4, W1/2SW1/4;

Section 27;

Section 28: E1/2, E1/2W1/2, E1/2W1/2W1/2;

Section 33: N1/2NE1/4, E1/2SW1/4NE1/4, NW1/4SW1/4NE1/4, SE1/4NE1/4, E1/2NE1/4NW1/4, NE1/4SE1/4, E1/2NW1/4SE1/4, N1/2SE1/4SE1/4, SE1/4SE1/4SE1/4;

Section 34;

Section 35: NW1/4NW1/4NE1/4, S1/2NW1/4NE1/4, SW1/4NE1/4, NW1/4SE1/4NE1/4, S1/2SE1/4NE1/4, W1/2, SE1/4;

Section 36: W1/2SW1/4SW1/4.

Township 28 South, Range 55 East, Copper River Meridian

- Section 1: S1/2SW1/4NW1/4, SW1/4;
- Section 2;
- Section 3: NE1/4, N1/2NW1/4, N1/2SW1/4NW1/4, SE1/4NW1/4,
NE1/4NE1/4SW1/4, N1/2SE1/4, SE1/4SE1/4;
- Section 4: E1/2NE1/4NE1/4;
- Section 10: that portion of Mosquito Lake;
- Section 11: N1/2, N1/2SE1/4, NE1/4SW1/4SE1/4, SE1/4SE1/4 and that
portion of Mosquito Lake in the SW1/4, except USS 3431;
- Section 12;
- Section 13: E1/2, NE1/4NW1/4, E1/2NW1/4NW1/4, NW1/4NW1/4NW1/4,
NW1/4SE1/4NW1/4, E1/2SE1/4NW1/4;
- Section 15: that portion of Mosquito Lake;
- Section 19: Lot 13;
- Section 24: E1/2E1/2, NE1/4NW1/4NE1/4;
- Section 25: Lots 9 through 11 and 16;
- Section 26: that portion of Lot 5 and NE1/4NW1/4 south of the Haines
Highway and Lots 1, 12 and 17;
- Section 27: Lots 3 through 8, 10, 13, 18, 19 and 22;
- Section 28, except S1/2NE1/4SW1/4, S1/2S1/2, S1/2N1/2SE1/4 and that
portion north of the Haines Highway;
- Section 29, except S1/2S1/2S1/2, NE1/4SE1/4SE1/4 and Lots 9, 14, 15 and
18;
- Section 30: Lot 11 and N1/2NE1/4SE1/4;
- Section 33: S1/2SE1/4SE1/4;
- Section 34: S1/2S1/2S1/2;
- Section 35: Lot 1;
- Section 36: N1/2N1/2, N1/2SW1/4NE1/4, NE1/4SE1/4NW1/4 and Lot 5.

Township 28 South, Range 56 East, Copper River Meridian

- Section 7: SW1/4NW1/4NW1/4, SW1/4NW1/4, SW1/4SE1/4NW1/4,
W1/2NE1/4SW1/4, SE1/4NE1/4SW1/4, NW1/4SW1/4, S1/2SW1/4,
SW1/4SW1/4SE1/4;
- Section 17: W1/2SW1/4SW1/4, SE1/4SW1/4SW1/4;
- Section 18: W1/2W1/2NE1/4, E1/2SW1/4NE1/4, SW1/4SE1/4NE1/4, W1/2, SE1/4;
- Section 19;
- Section 20: W1/2W1/2;
- Section 29: Lots 8 through 11;
- Section 30, except Lots 1, 4, 5, 8, 15 through 17 and the NE1/4SW1/4;
- Section 31;
- Section 32, except USS 991, USS 2455 and Lots 1, 2 and 24;
- Section 33: S1/2 except USS 2455 and Lots 18 through 21;
- Section 34: Lots 1, 2, S1/2NE1/4SE1/4, W1/2SW1/4SE1/4, SE1/4SW1/4SE1/4.

Township 28 South, Range 57 East, Copper River Meridian

- Section 22: NE1/4SW1/4, E1/2SE1/4SW1/4, W1/2NW1/4SE1/4, SW1/4SE1/4,
NW1/4SE1/4SE1/4, S1/2SE1/4SE1/4;
- Section 26: W1/2SW1/4NW1/4, W1/2W1/2SW1/4;
- Section 27: E1/2E1/2, N1/2NW1/4NE1/4, SE1/4NW1/4NE1/4;
- Section 34: NE1/4NE1/4, NE1/4SE1/4NE1/4;
- Section 35: SW1/4SW1/4NE1/4, NW1/4NW1/4NW1/4, S1/2NW1/4NW1/4, S1/2NW1/4,
E1/2SW1/4, NW1/4NW1/4SE1/4, S1/2NW1/4SE1/4, S1/2SE1/4,
SW1/4NE1/4SE1/4.

All of the above are subject to federal power site
withdrawals.

Township 29 South, Range 55 East, Copper River Meridian

Section 1: S1/2NE1/4NE1/4, E1/2SW1/4NE1/4, N1/2SE1/4NE1/4,
SW1/4SE1/4NE1/4, NW1/4NE1/4SE1/4, NE1/4NW1/4SE1/4.

Township 29 South, Range 56 East, Copper River Meridian

Section 1;

Section 2: N1/2NE1/4, E1/2SE1/4NE1/4, NE1/4NW1/4, E1/2NE1/4SE1/4,
NE1/4SE1/4SE1/4;

Section 4: W1/2NW1/4, W1/2SE1/4NW1/4, SE1/4SE1/4NW1/4, SW1/4,
W1/2NW1/4SE1/4, SE1/4NW1/4SE1/4, SW1/4SE1/4, W1/2SE1/4SE1/4,
SE1/4SE1/4SE1/4;

Section 5: E1/2, N1/2NW1/4, SE1/4NE1/4SW1/4, E1/2SE1/4SW1/4;

Section 6: N1/2N1/2NE1/4, NE1/4NE1/4NW1/4, S1/2NE1/4NW1/4,
S1/2NW1/4NW1/4, N1/2SW1/4NW1/4, NW1/4SE1/4NW1/4;

Section 8, except SW1/4SW1/4 and S1/2SE1/4SW1/4;

Section 9;

Section 10: S1/2S1/2NE1/4, SW1/4NE1/4NW1/4, NW1/4NW1/4, S1/2NW1/4, S1/2;

Section 11: S1/2NE1/4, S1/2S1/2NW1/4, NE1/4SW1/4NW1/4, N1/2SE1/4NW1/4,
S1/2;

Sections 12, 13, 14;

Section 15: N1/2, N1/2N1/2NW1/4, E1/2SE1/4, NW1/4SE1/4, E1/2SW1/4SE1/4;

Section 16: E1/2NE1/4, E1/2W1/2NE1/4, W1/2NW1/4NE1/4, NW1/4SW1/4NE1/4,
N1/2N1/2NW1/4, SE1/4NE1/4NW1/4, NE1/4SE1/4NW1/4;

Section 17: N1/2NE1/4NE1/4;

Section 22: N1/2NE1/4NE1/4, NE1/4NW1/4NE1/4;

Section 23: that portion of the N1/2NW1/4 lying west of Chilkat Lake.

Township 29 South, Range 57 East, Copper River Meridian

- Section 4: NW1/4NW1/4SW1/4, S1/2NW1/4SW1/4, SW1/4SW1/4, NW1/4SE1/4SW1/4
S1/2SE1/4SW1/4;
- Section 5: SW1/4NE1/4, NW1/4SE1/4NE1/4, S1/2SE1/4NE1/4,
SW1/4NE1/4NW1/4, W1/2NW1/4, SE1/4NW1/4, S1/2;
- Sections 6, 7, 8;
- Section 9: W1/2W1/2NE1/4, SE1/4SW1/4NE1/4, SW1/4SE1/4NE1/4, NW1/4, S1/2;
- Section 10: Lot 1, W1/2E1/2SW1/4;
- Section 14: that portion west of Haines Highway;
- Section 15: W1/2NE1/4, W1/2, SW1/4SE1/4, Lots 11 and 12;
- Sections 16, 17, 18;
- Section 19: NE1/4NE1/4NE1/4;
- Section 20: NE1/4, E1/2NW1/4, NW1/4NW1/4, E1/2SW1/4NW1/4, NE1/4SE1/4,
N1/2NW1/4SE1/4, SE1/4NW1/4SE1/4, NE1/4SE1/4SE1/4;
- Sections 21 and 22;
- Section 23: that portion west of the Haines Highway;
- Section 25: that portion west of the Haines Highway;
- Section 26: that portion west of the Haines Highway;
- Section 27;
- Section 28: NE1/4, NE1/4NW1/4, N1/2NW1/4NW1/4, N1/2SE1/4NW1/4,
NE1/4SE1/4, N1/2NW1/4SE1/4, SE1/4NW1/4SE1/4, NE1/4SE1/4SE1/4;
- Section 34: NE1/4, NE1/4NW1/4, NE1/4SE1/4NW1/4, NE1/4SE1/4,
NE1/4NW1/4SE1/4, E1/2SE1/4SE1/4;
- Section 35;
- Section 36: that portion west of the Haines Highway.

Township 29 South, Range 58 East, Copper River Meridian

Section 3: S1/2SW1/4NW1/4, SW1/4NE1/4SW1/4, W1/2SW1/4, SE1/4SW1/4, S1/2SW1/4SE1/4;

Section 4: SW1/4NE1/4NE1/4, W1/2NE1/4, SE1/4NE1/4, NW1/4, NE1/4SW1/4, SE1/4;

Section 9: NE1/4NE1/4;

Section 10: N1/2, E1/2SW1/4, E1/2W1/2SW1/4, NW1/4NW1/4SW1/4, SE1/4.

All of the above subject to federal power site withdrawals.

Township 30 South, Range 57 East, Copper River Meridian

Section 1;

Section 2: NE1/4, NE1/4NW1/4, N1/2NW1/4NW1/4, SE1/4NW1/4NW1/4, N1/2SE1/4NW1/4, SE1/4SE1/4NW1/4, N1/2SE1/4, N1/2SE1/4SE1/4;

Section 3: NE1/4NE1/4NE1/4;

Section 12: E1/4, NE1/4NW1/4, NE1/4NW1/4NW1/4, NE1/4SE1/4NW1/4, W1/2NE1/4SE1/4, NE1/4NW1/4SE1/4, E1/2E1/2SE1/4, NW1/4SE1/4SE1/4;

Section 13: NE1/4NE1/4NE1/4.

Township 30 South, Range 58 East, Copper River Meridian

Section 6: that portion west of the Haines Highway;

Section 7: that portion west of the Haines Highway;

Section 8: that portion west of the Haines Highway;

Section 16: that portion west of the Haines Highway;

Section 17: that portion west of the Haines Highway;

Section 18: E1/2, N1/2NW1/4, N1/2SE1/4NW1/4, SE1/4SE1/4NW1/4.

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PUBLIC HEARINGS

PROPOSED NATIVE RESERVATION
FOR

THE INHABITANTS OF THE VILLAGE OF KLUKWAN
Held at
Klukwan, Alaska
October 15, 1946

Meeting called to order - 10:30 o' clock A. M.
Adjourned - 6:30 o' clock P. M.

Hearings held at Klukwan, Alaska, October 15, 1946, before Presiding Officer Irwin W. Silverman, Chief Counsel, Division of Territories and Island Possessions, Department of the Interior, on Land Order No. 324, 11 FR 9142, pursuant to notice published on August 22, 1946, 11 FR 9144 and Petition of Natives of Klukwan for a reservation.

Representatives of the Office of Indian Affairs and the Natives:

Don G. Foster, General Superintendent, Alaska Native Service,
Juneau, Alaska

George W. Folta, Counsel at Large, Interior Department, Juneau,
Alaska

Representative of the Canned Salmon Industry, Inc.:

Peter F. Gilmore, Juneau, Alaska

MR. SILVERMAN:

My name is Irwin Silverman, Chief Counsel, Division of Territories and Island Possessions, Department of the Interior. I have been designated by the Secretary of the Interior as examiner to conduct hearings to determine whether a certain area of land as described by Public Land Order No. 324 should be withdrawn from the public domains for use by the Natives of Klukwan and vicinity. I should like to read the proposed order. This order appeared on the Federal Register August 22, 1946.
(Reads the Land Order.)

We have a list of persons who wish to testify. I should like to hear from those first. I should also like to reserve this day as a day for the residents of Klukwan.

MR. GILMORE:

My name is Peter F. Gilmore, and my address is, Alaska Salmon Industry, Inc., Juneau, Alaska. I am authorized to appear and do appear in this proceeding on behalf of the Alaska Salmon Industry, Inc. as an observer and possible protestant. The Alaska Salmon Industry, Inc. is a non-profit trade organization composed of concerns and individuals engaged in the business of catching and processing salmon in the Territory of Alaska. We are not familiar with the boundaries of the proposed reservation or the legal basis for its creation except that we understand the general authority for its creation is to be derived from the Alaska Amendment to the Wheeler-Howard Act which was adopted on May 1, 1936. If the purpose of this hearing is to assist the Secretary of the Interior in determining matters of policy in his own Department we offer no protest but we do not think that the Secretary of Interior is authorized by law to create any reservation pursuant to the Act of May 1, 1936, which includes (1) navigable waters (2) beds

of navigable streams (3) tide-lands or ocean bottoms situated below the line of mean high tide (4) exclusive fishing rights. Nor do we think the Secretary of the Interior has any legal authority pursuant to Act of Congress or otherwise to recognize any Indian title in the natives of Alaska to any up-lands, tide-lands, or navigable waters, based on aboriginal use and occupancy. If any of these things are contemplated we desire to enter a protest.

MR. FOLTA:

First I offer in evidence the statement of James King, one of the witnesses, taken in June 1946 with reference to the use of land by the Natives of Klukwan and vicinity. Now, in addition to offering a copy of that statement, I'll examine the person making the statement on the need of the proposed or some reservation. This offer is made with the reservation of the right to substitute for the copies of the statements which will be placed in evidence, the originals of those statements now on file in the Office of Indian Affairs in Chicago or Washington and the right to withdraw the copies upon such substitution so that the copies may be returned to the files of the General Superintendent, Alaska Native Service at Juneau. Accordingly, I offer in evidence a copy of the statement of James King.

(See Exhibit "B" attached hereto. The statement was examined by Mr. Gilmore.)

(CYRUS PECK, representing the people of Klukwan, was introduced at this time.)

MR. SILVERMAN: Any questions, Mr. Peck?

MR. PECK: No questions.

MR. SILVERMAN: Any objections?

MR. PECK: No.

MR. FOLTA: We will call James H. King

MR. KING was introduced as a witness and testified as follows:

MR. KING:

We were raised and born here, right off in the beginning. We didn't come from Europe or any other place. We aren't foreign people. We were born here on Alaskan soil. Our fathers didn't come from Europe, Russia or Finland or any other place. We are the people raised on this soil. That is the reason we call this village Klukwan. Klukwan means from generation to generation. It is Alaska. We don't come from foreign countries. I want you people to understand that we were raised here. The first whitemen to come to Alaska were the Russians. They were the first people to discover Alaska. They sold their rights to the United States--their rights to rule. They didn't sell the land to the United States. They sold the rights. For one reason this thing came up. We knew that we were losing out. Every individual of Indian finds out for themselves they are losing

their rights. Now this is our land today. We know we are losing our hunting grounds and we are losing our fishing rights. That is the only thing we make our living from-- our hunting, fishing and trapping and we get our living from the land. There are several of our people who have been chased off the land where we used to get our berries and game. This place is close to us but we can't get nothing out of there. It is because the Wildlife Service has closed that part of our hunting ground and you people all know that. That is one reason the Indians of Klukwan asked what is left to have put aside by the Congress for us to use. Isn't that right?

MR. FOLTA:

That is right.

MR. KING:

There is a place right around here at 28-mile post. There is good timber ground there. The homesteaders got in there. They are setting up homesteads on the best part of our timber land. We can't get a stick out of there for ourselves to burn. One of our men went up there last year. There was a dead tree and he got that wood for himself. When that homesteader found out that he was taking some wood he warned him not to take a piece of wood out of that homestead. Why does this homesteader chase us off? Because the Land Office has given the rights to own that land to the homesteader, and that is why. He isn't entitled to it as he claims. Why not give us the same as the whiteman when we ask for a piece of land? You people can see for yourself. (Mr. King examined the map, Exhibit "A".) There is the Chilkat running up to the boundary of British Columbia. This part of Klukwan River has been closed to us. This part is already taken up. This part is what we want today. We want that for a reservation for the people of Klukwan.

MR. SILVERMAN:

MR. KING:

How much land is that?

Twenty-eight miles up to the Canadian border. The people of our earlier generation have been doing trapping up this river. On the other side of the river the Indians from Haines have been doing their trapping. On the main Chilkat here and up to the lake here (still pointing to the map) our grandfathers and forefathers have been dependent on that ground for their living and fishing. They get the most for their winter supply and they get their berries for their winter supply. Up on the mountains we get our best blueberries. Therefore, we are asking for that. If the whiteman comes and takes that, where can we get our winter supplies? There is just one simple reason we are asking for that ground to be reserved for the Indians. Supposing we lost that ground. Where can we get our wood for our winter supply? Where can we get our meat? Where are we going to get our other supplies? We can't live on cold and hot air. You all know that. Why not give us the rights to put that land aside so that the people of Alaska can use it? This is what we are asking for today. We are not stingy with any man that has Indian blood in him, even from Haines. They are entitled to come up here and hunt with

with us. The same with us, we can go down there then. That is about all I can say just now.

MR. WASHBAKER, interpreter, asked the following questions:

MR. WASHBAKER: I would like to ask, supposing the Klukwan asks for a certain portion of land regardless of size, will it come to the Congressmen to say that is the proper thing for them to claim that much land? Will the Congressmen let it pass and have the whole land that is wanted by our people for a reservation?

MR. SILVERMAN: This is a proceeding here for the Secretary of the Interior. It is to determine whether the land as proposed, about 12,000 to 13,000 acres be put aside for the exclusive use of the Natives. This is not a proceeding for the Congress to decide. For that reason I am holding the hearing.

MR. WASHBAKER: Does the Secretary have power to grant that?

MR. SILVERMAN: Yes, he has.

MR. FOSTER: Mr. Silverman, I would like to put a statement in here.

MR. SILVERMAN: That would be quite proper.

MR. FOSTER: I am Don C. Foster, General Superintendent, Alaska Native Service, headquarters in Juneau. I want to make a statement explaining what a reservation is, and to clear up some of the ideas concerning reservations which are wrong. Under the treaty by which the United States purchased Alaska from Russia a section in the treaty states that the rights of the Native people of Alaska to their lands and possessions should be protected. In 1834 the Congress passed another act which provided for the protection of the land rights of the Natives of Alaska. In 1900 there was still another law passed which provided for certain protections and rights to the land rights of the Natives of Alaska. In 1936 the Indian Reorganization Act which first provided certain protections and rights and privileges of the Indians of the United States was amended to give the same rights and protections to the Natives of Alaska. Under this Act the Secretary of the Interior was given the power to set aside certain lands for the protection and rights of the Natives of Alaska. Now, unfortunately, those land areas that have been set aside for the use of Native groups have been called reservations. Actually, what that term reservation is is simply setting aside and giving to your people a security title collectively and not individually for the land that you say is yours. That security title gives that land the protection of the Federal Government to your people as a whole and simply means that no outsider can come along and kick you off. A reservation does not affect the liberties of the people of that reservation in a way to change their method of living as it is today. The people can go where they please, when they please and how they please, and the only Indian Service employes that will be in charge of that reservation will be your school teacher, and whenever you don't want that school teacher all you

have to do is say so and we will move him out and you can have a territorial school. A reservation does not mean that there will be an Indian Service agent in charge. We have a number of reservations scattered all over Alaska and there isn't a single one of these reservations with a Government agent in charge. The only Federal employee there is the school teacher. Under the Reorganization Act, or even where the people are not organized, under that section you have that right to select your own council and handle your village affairs as you have been doing at the present time. It will effect that procedure in no manner whatsoever. Now the matter of controlling your own lands is actually why you have that reservation set aside. It is a matter of protecting those lands which actually have belonged to you from time immemorial. The establishment of a reservation does not mean that you can't allow outsiders to build hotels or other businesses. It simply means that your council would have control over any business that would come in on your reservation. Mr. Wananaker, it just comes down to what James King said a while ago. James King said, "We want to handle our own land. We want to control our own land." That is just what it means. You'll still have the right to vote as you have today. You'll have the right to enter into territorial government and, we hope in the not too distant future, into statehood government just as you have today. My last statement is simply this. It gives you a security title to lands which are rightfully yours. It gives you a free opportunity to manage that land and anyone outside of your people that want to put up businesses or commercial activities of any kind.

CYRUS C. PECK was introduced as a witness and testified as follows:

MR. PECK:

My name is Cyrus C. Peck. I am a layman of the Presbyterian Church. There is one question that arose in my mind and I know that it arose in the minds of all the people. As we talk along the line of this reservation we want you to know that we were very much in the dark about the light of this hearing. We didn't know about this hearing until about two days ago. I believe the people here in Klukwan are as much up in the air as I am. Concerning this word reservation-- I know it can be interpreted in many ways. We stood the ground that we didn't favor any reservation that would hinder the rights of our people and our children. We didn't favor any reservation that would prevent the progress of the Territory. If Klukwan is reserved, will it prevent any business from coming into Alaska?

MR. FOSTER:

Your Council would have the final say on businesses which would be established on the reservation. It wouldn't change the legal aspect of your Council here whatsoever.

MR. PECK:

We would be under the direction of the Office of Indian Affairs?

MR. FOSTER:

Only to a limited extent. As far as the Office of Indian

Affairs is concerned, that is merely a formality.

MR. PECK:
MR. FOSTER:

The payments for the land go to the Juneau office/
That is correct.

MR. PECK:

We stood on the ground of the resolution, 24-A and 24-B, of the Alaska Brotherhood Convention held at Eke in the year 1944. If we do go on a reservation and if we should want to lease our land out and if the Office of Indian Affairs says no, that is stopping the advancement of Alaska, is it not? can

MR. FOSTER:

No, you have the right of appeal over our head. You go right to the Commissioner of Indian Affairs or even to the Secretary of the Interior.

MR. PECK:

Another question I would like to ask. If this country becomes a state, what will the reservation mean?

MR. FOSTER:

It doesn't change it at all.

MR. PECK:

Will the Natives have to pay a tax to the state?

MR. FOSTER:

On a reservation?

MR. PECK:

Yes.

MR. FOSTER:

No.

MR. FOSTER:

Apparently the question has come up that if the people have a reservation, the old people would lose their pensions. That is not true. It in no way effects your pensions.

MR. GILMORE:

May I ask you a question, Mr. Foster?

MR. FOSTER:

Certainly.

MR. GILMORE:

What pensions are you discussing? Is this a matter of a territorial pension?

MR. FOSTER:

No, I am talking about the social security pension.

MR. FOLTA:

Mr. King, do you understand the boundaries of the proposed reservation? Have you seen a map or sketch of the proposed reservation?

MR. KING:

No.

MR. FOLTA:

You have never seen it before?

MR. KING:

No.

MR. FOLTA:

(Pointing to the map.) The proposed reservation boundaries are shown here in red. Is this area too small?

MR. KING:

It is too small.

MR. FOLTA:

Do you think the people of Klukwan should have an area that would include Chilkat River?

MR. KING:

That is just exactly the way it should be. Here is our main hunting and trapping ground beyond the lake on the south side of the lake. There is plenty of good berries that grow up and around here. This area is something like an island. Therefore, we are asking for this on the south side of the lake on both sides.

MR. FOLTA: Mr. King, what I want to find out is just what you think the western boundary should be. Would you follow the Kishini River?

MR. KING: That is what we want.

MR. FOLTA: How many people live at Klukman and in this area that you think they ought to have?

MR. KING: Probably about a hundred.

MR. FOLTA: Do you know about how many people live in Klukman?

MR. KING: All you see here today.

MR. FOLTA: This area that you want, is that the area that your people, your fathers and ancestors used all the time?

MR. KING: Yes, sir, from generation to generation they used this area for hunting and trapping and fishing and berrying.

MR. FOLTA: You mean to say that now you can't hunt as much; you can't fish as much; you can't pick berries as much?

MR. KING: Yes, sir, because there are so many homesteaders that got in the way of our trapping.

MR. FOLTA: You mentioned these homesteaders along the river. Just tell the judge how their being along the rivers and streams has effected you.

MR. KING: My statement is going to be this. During our trapping season we don't travel on the mountains. The fur follows the foot of the mountains. Therefore, the homesteaders are right at the foot of the mountains where they have the cabins. That is where we used to trap. Therefore, when the homesteaders come there they entirely shut off the hunting there.

MR. FOLTA: Do you still get as many fish as you used to?

MR. KING: Not as many as we used to on account of the Southeastern Alaska traps.

MR. FOLTA: Can you tell us about how many homesteaders there are in this area? Not in the proposed area but in the area that you claim you want?

MR. KING: At least about ten homesteaders up on Kishini.

MR. FOLTA: Have some of these just come in lately?

MR. KING: They are coming in lately too.

MR. FOLTA: Are you afraid that there will be other homesteaders coming in?

MR. KING: We know that they are coming in right along.

MR. FOLTA: Mr. King, is it harder for your people to make a living now than it was?

MR. KING: It is.

MR. FOLTA: The more white people that come in, the harder it will be?

MR. KING: Yes, sir. The more homesteaders coming, we will soon be chased out of our own lands. For that reason we are asking for the reservation.

MR. FOLTA: Is the population smaller now than it used to be?
 MR. KING: Smaller, yes.

MR. FOLTA: Why?
 MR. KING: We don't know why. The death rate is higher.

MR. FOLTA: Are some of the young people leaving Klukswan?
 MR. KING: There are some leaving to go to southeastern Alaska to make a living.

MR. FOLTA: The old people stay here?
 MR. KING: That is right.

MR. FOLTA: Mr. King, do you know how the proposed boundaries were decided upon?
 MR. KING: I do not know.

MR. FOLTA: Did you sign the petition?
 MR. KING: I never signed the petition. The only time I saw it was when it was in Juneau at the Office of Indian Affairs.

MR. FOLTA: You never signed the petition?
 MR. KING: No.

GUS KLANEY was introduced as the next witness and made the following statements:

I haven't gotten very much to say but there are two particular things you mentioned. Those are the lake and the size of the area. That is what I would like to talk about. We do not try to fool around with our land. We like to see anything living on it to be increased for our own benefit. If we have to say anything about it we want the people to listen to our request if we are making it. A good many of them have been trying to claim the Salween Lake across here. We are trying to protect our own right and our own land as far as we know how and as far as we understand. The lake across here we have been always trying to protect it as much as we can and the river as a whole and when the highway was being built through here it was built along the river and that disturbed many things. The fish recognize many things. They know when they are going in their own river. When the road came through the fish didn't recognize their own place. A rock fell in the river when they were building the highway. These things and many others hurt the salmon spawning. All these things here we have been trying to protect as much as we know how and just the way God created it and things go on in a natural way. Two surveyors have been coming into this country surveying any land they want to, any place they want to. Any person coming in here exploring gives his own name to his discoveries. We have our own names. Many things are being changed. We don't understand your map but we know our own land we have names for our own land. All these commercial and fishing regulations have been in the hands of the white people and they have regulated any way they think for their own benefit. It is just your people who make things that way. You don't try to protect the salmon but are looking out for your own commercial benefits and not for the benefit of the fish as they spawn in a natural way. When the commercial people say that they want fishing this year, the salmon has already come to the spawning ground and shouldn't be disturbed. That is where the whole mistake is--to have fishing for commercial purposes. I'll have just this much. I have many things to say but I can say just this at present.

JOHN SHERTY was introduced as a witness and testified as follows:

We have been wondering just how we can go about this. We have been hearing about it for many years now and we just don't know how we are going to get possession of anything. That is why I am glad that you are here to hear us. I will explain my own feelings, what feeling I have about this business. I have been hearing different things about this reservation. I am now 56 years old. Ever since I have been a boy I have heard all this rumor going about. I haven't the least idea about what this occasion is. I have poor hearing. I never went to school and I understand our way so I think I have the right to express my own opinion on what we have to speak on today. You are here for that purpose--to hear from Indian himself, to hear what he has to say for himself. You want to get a full understand of what an Indian really wants and that is the purpose you are here to hear. You want to take with you when you leave this place just how much claim we want to make so that you will have in your hands what you really wanted. Everything should be formed in a proper way, in a way that will help and benefit us. We have no authority to help us to get our claims as we want it. We have been trying for many years to get our claim in the proper way, the way we should really have to claim it. We never get it right. We understand the way you explained to us and we think it is going to be a good thing. We have been here for many years, for generations and we have been on our own land. We know our own land, how it is situated and everything else. There are about six different branches of the river which comes to the main river and runs to salt water. All our ancestors and forefathers have claims on those branches. That is the way they made their living. They got berries and animals from the mountains. Today we can't go out just as we used to because of this Game Law and other things. We can't go out any time we want and get the meat we want. Everything is closed to us and we are not free as we were to get meat as we once did. For generations our people have had their own trials and troubles. There was no law then. They settled their own troubles. They have their own weapons. They have their own ways of settling their own troubles. That is our way of doing of our grandfathers. This is the whole reason of our putting in our claim so that nobody can crowd us out of our own land. We want to make the same claim as our forefathers have made. We are trying to protect it in many ways, the hunting ground and many things that we used to do on it. We don't try to fence out anything or make any survey lines. It is the way our forefathers make their claim. The two mountains on both sides are our fence. The area inside is ours. The surveyors come here, probably Canadian, and mark out their land. We never had it like that. Our boundaries are the range of mountains on either side of the valley. People are free to go ahead and get what they want from anywhere in the land whether it is berries, salmon, furs, or animals. They get it whenever they want. I have a trapping ground up here which somebody mentioned. That is my brother's trapping ground. He was killed there by a snow slide. I used to have a little shack there and I wanted to trap in that trapping ground. I had a shack there and I trapped there steadily for four years. I work in the C.C.C. and for four or six years I didn't trap at all. Now I would like to have it as the way it has been to me through my forefathers. We all have a trapping ground in the whole valley and each family had their own claim to the trapping ground. Chilkat Lake is really our source of our food supply and where we get our fish. We don't want any people running around here with outboard motors or any kind of power motor on that lake. Airplanes can land on any lake they want to. We don't want anything like that. It will spoil the spawning of the fish in the lake. The salmon have to spawn in a natural way; above anything else, salmon must spawn in a natural way.

MR. FOLTA:

I want to cross-examine the two witnesses.

MR. SILVERMAN:

You may do so if you wish, but I believe that Mr. Katsck would like to speak first and then you can examine the three witnesses

after Mr. Katzek is through.

DAN KATZEK was called as a witness and testified as follows:

The name that applied to us is Indian. We have our own way of living and we do not understand your way. We understand the people who made this so-called map which you spread before us are educated in their own way. They understand their own way of living. We understand ours. Governor Brady was the first governor of Alaska to come around here. Our chief then had a talk with him. This chief asked him what nation is the strongest in the world, Russia or Great Britain. Governor Brady showed us the power we now have in the Government. He wanted my people to be under the influence of the Government at Washington, U. S. If a white man is honest with us, we are willing to take his part. We have power in our own way so that we are not afraid to talk to anybody. The reason why we say we have power is because we are under the United States. One great reason we are great is because the United States is behind us so when they call upon our young men to take part in this last war they were willing to go any place. They promised to go and fight and protect their own land and were willing to be killed like any other soldier. You are here to help us and for this reason we want to tell you our own part of it. We are not afraid to commit ourselves with the Government because we are Americans too. I say just this much now and if I make any mistake in my statement, just pardon me.

Cross-examination of GUS KLANEY by MR. FOLTA:

Q. Gus, you understand the testimony given by Mr. King that the reservation was too small?

A. Yes, I think it is too small.

Q. Did you sign the petition for this proposed reservation?

A. Yes.

Q. Why did you sign it if it is too small?

A. I didn't know the size of the proposed reservation.

Q. Nobody explained to you how small this proposed reservation was going to be, is that correct?

A. No, nobody explained it to me.

Q. Do you know how the boundaries of this proposed reservation shown in red on the map were decided upon?

A. No.

Q. When did you find out what the proposed boundaries were?

A. They told us in a hurry that if you don't hurry with this reservation, somebody is going to make a claim.

Q. You haven't answered my question. When did you first find out that these were the boundaries of the proposed reservation?

MR. KING interrupted at this point and said:

Mr. Folta, I think I can answer that for him. Nobody knows anything about this reservation until this fall when I went to the Indian Office at Juneau.

John Willard, Frank Lee and myself were in Juneau at that time. Those were the only three people that ever saw that reservation. That was in September, on the third day of September. That was the only time that anybody knew anything about that red line around the lake. Therefore, I suggested to Mr. Foster that I did not agree with the idea at the time. Nobody in Klukwan has seen that. As far as I understand on the north and south side of the lake is what the people want. The man that made that map made a great mistake in taking only the north side of the lake.

Q. Mr. King, did you tell the people of Klukwan when you came back from Juneau what the proposed reservation's boundaries were?

A. Not all of them. Just the young people.

Q. I am just trying to find out now when these people found out this proposed reservation was too small.

A. Right now.

Q. Just now?

A. Yesterday when we had our meeting.

Q. Mr. Klancy, do you know whether the people of Klukwan want a reservation?

A. No, I don't agree because I had never seen the proposed reservation.

Q. That is not my question. Do you think the people of Klukwan want a reservation of any kind?

A. I cannot answer you yes because I do not understand.

Q. Do you favor a reservation? If so, how big do you think it should be?

A. If I should agree on size of reservation, it goes up to the Interior beyond the boundary line to the cannery.

Q. Mr. Klancy, you think the reservation should be larger than that proposed by Mr. King?

A. Yes.

Q. Don't the Haines people claim the land on this side of the point?

A. No.

Q. It is necessary for the Klukwan to have a reservation that large in order to make a living?

A. Yes.

Cross-examination of JOHN SHORTY by MR. FOLT

Q. Mr. Shorty, you heard Mr. King's statement here this morning, didn't you?

A. Yes.

Q. Do you agree with him that any reservation should be as large as he has said?

A. Yes.

Q. Do you agree with him for the same reasons that too much of the land is being taken up in homesteading and the hunting, fishing and trapping are being interfered with?

A. Yes, I want to extend the reservation lines so that I can use my trapping grounds as I used to.

Q. When did you first find out that the proposed boundaries were those indicated on this map?

A. I have never seen the map.

MR. KING: I don't think any of these people have seen that map. This is the first two hours that the map has been shown to the people.

Q. Mr. Shorty, when did you first find out what these proposed boundaries are?

A. I have never known about this where you have made a drawing with the red lines or anything about it.

Q. You didn't hear Mr. King explain it sometime after he returned from Juneau?

A. No, I have never heard it.

Q. Do you know whether the people of Klukwan are against the proposed reservation because it is too small?

MR. KING: I think it is very clear there what I have suggested to the people. Nobody has ever seen that map before this morning. As far as that goes they ask for a reserve of the whole lake, north and south sides, because it is of benefit to them.

MR. SILVERMAN: If the land is reserved as proposed, of what benefit would it be?
MR. KING: It will be of little help. There is little game there.

MR. SILVERMAN: Is there any fish there?

MR. KING: Not on the hill.

MR. FOLTA: After you found out what the proposed boundaries of this reservation were to be and you told the people, did the people take any action at any meeting?

KING: I did. I told some of them after I came from Juneau what the reserve ground was as I did point out to you this morning. It is of no benefit to us and so I will not agree with the reserve grounds but I side with the Indians of Klukwan. We should have the south side of Chilkat Lake, the whole south side, including the north.

MR. FOLTA: Will you indicate the minimum requirement so that the people of Klukwan would be able to live at a standard of living that they now enjoy?

MR. KING: Yes, sir, if we had the reservation as was suggested earlier.

MR. FOLTA: With that they could have a standard of living as they have now?

MR. KING: Yes.

MR. FOLTA: Mr. Shorty, before you put your name on the petition did anybody explain what the boundaries were?

MR. SHORTY: Nobody told me the size.

MR. FOLTA: Mr. Katsok, I notice your name is also on this petition. Did anybody explain the boundaries of this reservation before you signed it?

MR. KATZEK: It was drawn out on the blackboard over there. (Points to blackboard in schoolroom where hearing was conducted.)

MR. FOLTA: Did you understand the boundaries as they were explained to you, as they are now shown on Exhibit A?

MR. KATZEK: I can read for myself and see the figures.

MR. FOLTA: Will you step over here and see if the map here corresponds with the picture drawn on the blackboard?

MR. KATZEK: I don't know how it is. All I could see was what was on the blackboard.

MR. FOLTA: Did you think that the sketch on the blackboard showed a reservation that would be big enough?

MR. KATZEK: Mrs. Perkins was the woman that made the sketch. She told the people that they would have no chance on any land unless we have a reservation.

MR. FOLTA: Did you understand, Mr. Katsok, that the reservation would be bigger than it appears on this map?

MR. KATZEK: This woman (Mrs. Perkins) was married to a Native man. She did take the issue rather personal. Afterward we understood that she wasn't doing the right thing when she took action.

MR. FOLTA: Do you mean that you just didn't understand the area that was described by her?

MR. KATZEK: I understood what she explained to us then. She said that the reservation they would make now would be added to later.

MR. FOLTA: Then I am to understand that she clearly described the area but that it was supposed to be a temporary arrangement and would be added to later?

MR. KATZEK: Yes.

MR. FOLTA: How big a reservation do you think the Klukwan people should have?

MR. KATZEK: I don't even know how many miles the proposed reservation was.

MR. FOLTA: How big a reservation should the people of Klukwan have?

MR. KATZEK: It isn't big enough. It should extend farther up.

MR. FOLTA: Do you agree with the area described by Mr. King?

MR. KATZEK: Yes, I agree.

MR. FOLTA: Mr. Katsok, after the people understood from Mrs. Perkins' statement that this was to be temporary and there would be an addition made, when did you find out that that was not correct?

MR. KATZEK: I never heard anything else but what I heard this morning.

MR. FOLTA: When Mrs. Perkins explained this, did she call a meeting or did she call you in one by one?

MR. KATZEK: Many of the people were away at the time and they were all busy. All the people never really understood what it was all about.

MR. SILVERMAN: It was on that basis that the petition was signed?
MR. KATZEK: Yes.

MR. FOLTA: Besides the reasons stated by Mr. King that the people here should have a reservation because of interference with your hunting, trapping and fishing, do you know of any other reason why the people should have a reservation?

MR. KATZEK: For one reason that we cannot trap minks the way we used to. Someone was in the business of mink farming. The people seem to recognize that the whites don't care if we starve or not. These mink farmers are getting all the salmon they want.

MR. FOLTA: Are you referring to mink farmers within the land the Klukwan people claim?

MR. KATZEK: No, the outside.

MR. FOLTA: Mr. Katzek, as I understand it, an additional reason why you think the people of Klukwan should have a reservation is mismanagement of the canneries. Have you any additional reasons to give why the people of Klukwan should have a reservation?

(The question was unanswered because the interpreter explained that the witness did not understand the question. Mr. Folta then restated his question.)

What I want to ask is this additional question to make it clear. Do I understand it that an additional reason is mismanagement of the fisheries; the failure of the Fish and Wildlife Service to control the fishing?

MR. KATZEK: No.

MR. FOLTA: Then as I understand it, you have no other reasons for saying the Klukwan people should have a reservation in addition to the reasons given by Mr. King.

MR. KATZEK: Yes.

MR. WILLIAM H. SPARKS interrupted the proceedings and made the following statement:-

Mrs. Perkins did explain this reservation idea to the people here, but not too clearly. When this road went through the back here they got in a hurry about this proposed reservation. What was drawn up is of no value to the Native people.

MR. FOLTA: Somebody made it up in haste?

MR. SPARKS: There were three teachers here in a short time after Mrs. Perkins quit. This all came up in the middle of that.

MR. FOLTA: Do you know who prepared this petition?

MR. SPARKS: Mrs. Perkins might have signed.

MR. FOLTA: It was said that this was done here at a meeting of the people.
MR. SPARKS: I spoke to Mrs. Perkins in Haines last night and she said that she didn't know anything about it.

MR. FOLTA: Did she tell you that?

MR. SPARKS: Yes.

MR. FOLTA: Did she tell you last night at Haines that she misinformed the people?

MR. SPARKS: She didn't know anything about it. Mrs. Lando, one of the teachers, got a piece of paper in here to sign. She had to get it out in a hurry. This piece of land here isn't of any value to the people.

MR. SILVERMAN: What is there on the land?

MR. SPARKS: Nothing but gravel.

MR. SILVERMAN: All that area proposed?

MR. SPARKS: All that area proposed.

JOSEPH M. KARKLEN was called as a witness, making the following statement:-

When I first came to Klukwan in 1944 the old people were very much upset about the Chilkat Lake. The old people came to me with all their troubles. They came to me saying that they wanted something done about this lake because it meant so much to them. A man by the name of Sherbeck was up here from Washington, D. C. Jimmy Lee asked that a meeting be called and it was held here in the schoolhouse. They explained the whole thing to the people of Klukwan. They wanted the lake reserved. The understanding that the old people had was that the whole Chilkat Lake was to be reserved for them.

MRS. SPARKS: This hearing is quite an attack on us. I understand that we are supposed to have a thirty-day notice before this hearing takes place. We just heard it from Mr. Karklen when he came in Friday. Besides that, we are supposed to have a copy of the rules and regulations. When the Government schoolteacher was reading this order to us we favored the reserved land. About four years ago when Dr. Dale was here the people of Klukwan asked for an extension of the reservation. That notice that was given James King was the first time we knew about it. We had several meetings here among the Alaska Native Brotherhood and the Alaska Native Sisterhood.

MR. SILVERMAN: The official notice that I have here in my hand is dated August 14, 1946. A telegram was sent to the Governor and the Governor was asked to notify the villages of Barrow and Klukwan.

MRS. SPARKS: I am the President of the Sisterhood. I didn't see any message delivered to us and so our people are just lost today.

MR. SILVERMAN: When do you suggest that I hear who is not here today, tomorrow, or the next day so that I can have their opinion as to whether the land should be set aside for a reservation?

MRS. SPARKS: Mrs. Perkins is in Haines.

MR. SILVERMAN: She know there was going to be a meeting.

MRS. SPARKS: She is not a Native.

MR. SILVERMAN: Is there anybody here in this room now who should be heard on this question? I don't see that the notice is too important at present.

(No response to this question.)

JAMES LEE was called as the next witness and testified as follows upon questioning by MR. POLTA:

- Q. Did you understand all that was said here this morning about this proposed reservation?
- A. I heard all that has been said but I didn't understand all that was said.
- Q. Mr. Lee, here is the proposed reservation marked in red. (Points to the map.)
- A. I had never seen it and didn't know anything about it until this morning.
- Q. Are you able to identify this place shown on Exhibit A from your familiarity with this section of Alaska?
- A. Yes, I would recognize it.
- Q. Are you in favor of this for a reservation for the Klukwan people?
- A. No.
- Q. Why?
- A. I don't favor it unless it is marked out so that it will help us and we will get some benefit out of it.
- Q. Why aren't you in favor of it?
- A. The way the area is marked out doesn't suit me.
- Q. How big do you think it should be?
- A. It will help us if it is clear up to the Canadian border.

MR. SILVERMAN: As proposed is it of much value? What can be done with it?

MR. LEE: It will help us because of the size of the reserve but the way it is now it is too small.

MR. POLTA resumed the questioning:

- Q. Are you a Native of Klukwan?
- A. Yes, I was born here. My mother was born here too.
- Q. How old are you?
- A. Seventy years.
- Q. What occupations have you followed?
- A. I used to be a trapper, hunting and shooting. I don't do anything any more because I am past the age. I am too old.
- Q. You say the reservation should extend to the Canadian border. Will you tell us how far you think it should extend in other directions?
- A. As far as Berner's Bay.
- Q. How far east should it extend? As far as the Chilkat River?
- A. Up to Skagway.
- Q. Did the Klukwan people use that area alone in years gone by or did they use it with the Haines people?
- A. This is our land. We claim it with our nearby neighbors.

- Q. Now we are not inquiring about how much the Haines people should have, but how much the Klukwan should have. Do you think the Klukwan people alone should have this area just described?
- A. The Klukwan people should have that much land.
- Q. Without paying any attention to the Haines people?
- A. This is our land.
- Q. Why do you want a reservation?
- A. It is our land and to help us earn a living.
- Q. You can still use the land. Isn't there some other reason?
- A. If we don't make our claim now, white people are coming to the land. This land is going to be flooded with white people all over. If we don't make our claim now, we will lose everything.
- Q. Explain what changes have taken place since you were a small boy which make it necessary now for you to protect your land.
- A. This was our land when I was a boy. Our land was plenty full of fish, game and everything. There was no hardship at all; no regulations or anything. You could do anything at any time. Today we can't do that any more. There is regulation for fishing and regulation for game.
- Q. What else has made it harder since you were a boy to get game, fish and anything you use to get?
- A. We use to be able to get our berries and other things and since this highway has been put through, we don't get our food as we use to in the early days.
- Q. You mentioned the regulations or laws governing game and fish that make it harder for you to get game and fish, and also the highway. Is there anything else that has made it harder for you to get game?
- A. What makes it harder for us is the people coming in and taking up homesteads. They take the places where we did our hunting and berrying. If we go there as we did before, we have to stay off that land. That is what makes it difficult for us to get our game and berries and whatever we did on that land.
- Q. Do you expect anything else to happen in the near future to make it more difficult for you to make a living?
- A. If we don't establish anything for ourselves right now, it will be harder for us to do so later on. Therefore, we have to have something to help us in the future.
- Q. Then you think it is necessary to have this land reserved for your use in order to make a living in the future?
- A. Yes.

MR. FOLTA:

I offer the statements of the witness made in June 1946 with the right of substituting the original and to a return of this copy.
(See Exhibit "C").

CHARLES JAMES, age 74, Klukwan Native, was called as the next witness.

Q. What occupations have you followed during your lifetime?

- A. I used to hunt by shooting game.
- Q. Have you noticed the area of the proposed reservation that is marked on Exhibit A7
- A. No, I have never seen it. It seems to have been undercover all the time. They just asked us on the outside whether we have seen it or not.
- Q. Do you understand what land is included in this reservation?
- A. Yes, I don't understand the proposed reservation too well but according to what I hear it is too small.
- Q. Do you understand that, roughly speaking, it runs between Chilkat River and Chilkat Lake and Salmon River? Is that what you understand to be the proposed reservation?
- A. Yes, I understand that part of it.
- Q. And that is too small?
- A. Yes.
- Q. How big do you think it should be?
- A. From the Canadian border right down to Searcy's Bay.
- Q. What about the west?
- A. On the top of this mountain. The tops of the mountain on the south side and the north side on the Chilkat River.
- Q. Is that the land that the Klukwan people used and your ancestors?
- A. Yes.
- Q. Didn't the Haines people use the same country?
- A. Yes.
- Q. Are you in favor of reserving that much land for the Klukwan people?
- A. Yes.
- Q. Why do they have to have that much land?
- A. There isn't much timber on the proposed reservation.
- Q. Do you think that the people of Klukwan could not make a living in the future if this area weren't reserved for the Klukwan people and the Haines people?
- A. Yes.
- Q. Explain why you feel that a reservation is necessary.
- A. Right now we have no place to get our wood supply and berry supply. Homesteaders are taking the best part of our land. We can't get our wood. The homesteaders are on the land where we used to get our wood and berry supply. Especially right now as older people we have less and we have to tell somebody else to get our wood for us and wherever they go for the wood they are being driven out by the homesteaders.
- Q. You are afraid that it will get worse from now on?
- A. There is no marker that we have a claim on this land and it will be harder for us.

Q. Will it be harder because it looks like more white people are coming in or what is it that makes it harder for you?

MR. KING interrupted the proceedings and made this statement:

Ladies and Gentlemen: I have given you the whole explanation. The reason was as the people understand it right now. When the question is asked, they are entirely lost. We know that the white people are coming into Alaska and there will be more in the next few years. That is the reason we are asking for the reservation right now.

MR. FOLTA: We understand that. However, we want to hear from everybody here and hear everything they have to say. That is why we are calling all these witnesses.

MR. FOLTA resumed his questioning of Mr. JAMES.

Q. If a reservation is not granted for your people, do you think it will be hard or impossible for the people to make a decent living?

A. Yes.

MRS. MARY WILLIAMS was called as a witness and testified as follows:

Q. State your name, age and address.

A. Mrs. Mary Williams, 70, Klukwan.

Q. Mrs. Williams, do you understand what land is included in this proposed reservation?

A. I do not know until I hear from the discussion going on this morning.

Q. Mrs. Williams, it includes the land bounded by the Salmon River on the north, the Chilkat River on the east and the Chilkat Lake on the west.

A. I know. They say so.

Q. Has that any value, particularly to the Klukwan people?

A. Yes, it is valuable for us because we make our living from it.

Q. Has it more value than land used anywhere else by the Klukwan people?

A. Yes, the whole land as a whole is of value to us.

Q. I think she misunderstood the question. Is there any other place, any other piece of land of this area that would be worth more to you than this?

A. Yes, it was to us but there were no survey marks in those other days.

Q. Is that enough for a reservation?

A. Yes.

Q. You have lived in Klukwan all your life?

A. I was born and raised here.

Q. You have heard others of your people say that that proposed reservation was not enough. Do you agree with that?

A. It is not big enough and we expect you people to help us in getting more land. I think that is the purpose of your coming here.

Q. What on this land could be of value to the people of Klukwan?

A. We do not see anything that would benefit us.

Q. You mean it won't be of any benefit at all?

A. No, the land is much bigger.

MR. FOSTER: Do the old people ever go up to Chilkat Lake?

MRS. WILLIAMS: Yes, they go there to get hides.

MR. FOSTER: Do they ever get any fish up there?

MRS. WILLIAMS: Yes, they get fish there.

MR. FOSTER: Do they dry those fish?

MRS. WILLIAMS: Yes, they dry the salmon.

MR. FOSTER: Do the people ever go up to Chilkoot Lake?

MRS. WILLIAMS: Yes, the people always go there.

MR. FOSTER: What do they get up there?

MRS. WILLIAMS: Salmon, berries and blueberries.

MR. FOSTER: Do they get any fish?

MRS. WILLIAMS: Yes.

MR. FOSTER: Do they dry or smoke any of those fish for use in the winter?

MRS. WILLIAMS: No, we don't dry salmon because it is too far away from our area.

MR. FOSTER: Do they catch any fur between Chilkat Lake and Chilkoot River?

MRS. WILLIAMS: As a woman I do not know. You ask the question of these men. They will tell you all about it.

Questioning resumed by MR. FOLTA:

Q. Mrs. Williams, do you think the reservation should be larger?

A. Yes.

Q. How much land do you think should be included? Describe it as to the boundaries.

A. As far as our lands are concerned--all the way even extending beyond the Canadian boundary and as far as things go now, it would be better if it would be extended to the Canadian border.

Q. How about the other side?

A. As far as Ferner's Bay. That is what we asked for in the first place.

Q. Do you think it is necessary for the Klukwan people to have a reservation?

A. Yes.

Q. Why is it necessary?

A. The white man coming now can pick up any land he wants. If it is reserved for us people we would know it is ours.

- Q. As I understand it, it is necessary to have a reservation and it is necessary to have one as big as you describe.
- A. Yes, it is necessary to have a larger area.
- Q. Is it becoming harder for the Klukwan people to make a living?
- A. Yes, it is harder.

MR. FOLTA: I want to offer Mrs. Williams' statement made in June 1946 in evidence with the stipulations previously made.
(See Exhibit "D").

MRS. SUSIE KING (WASOOK) was called as the next witness and testified as follows:

- Q. State your name, age and address.
- A. Mrs. Susie King, Klukwan.
- Q. You are a Native and lived in Klukwan all your life?
- A. Yes.
- Q. Are you familiar with the land bounded on the north by the Salmon River, on the east by Chilkat River and the west by Chilkat Lake which was included in the proposed reservation discussed here all morning?
- A. No, I didn't understand.
- Q. Do you understand what area this is?
- A. I know the land here or north of the land.
- Q. Is that particularly valuable or do you think some other land should be included in the reservation?
- A. There should be more land than proposed.
- Q. How big should the area be that is reserved for the Klukwan people?
- A. Whatever our people decide.
- Q. Do you think the reservation should be big enough to include all the land your people have been using all your life?
- A. All the land should be included.
- Q. Why is it necessary for the Klukwan people to have a reservation?
- A. Whatever the people want and whatever they decide. It is up to them.
- Q. Is it harder for the people of Klukwan to make a living now than it was in the past?
- A. It is harder now.
- Q. Why is it harder now?
- A. The white man has the surveyor lines around the land. We can't go about as freely as we used to. We don't know anything about boundary lines.
- Q. If more white people come in it will be harder to make a living?
- A. Yes.

MR. FOLTA: In connection with this testimony, I offer as stated in the other cases the statement made by her in June 1946.
(See Exhibit "E").

VICTOR NOTCH was called as a witness and testified as follows:

Q. How old are you?

A. Forty-nine years old.

Q. You are a Klukwan Native?

A. Yes.

Q. You have lived here all your life?

A. Yes.

Q. What occupation have you followed?

A. Fisherman, trapper and hunter.

Q. Go ahead and make any statement that you see fit to make about this reservation.
A. I was opposed to this movement because of this land suit which is coming up and we cannot do anything outside of our Alaska Native Brotherhood Convention. I was opposing this reservation because I never make any statement about this reservation but always depended upon our convention of the ANB here in south-eastern Alaska. I have never signed my name to it. Whenever we discuss this among our people I always speak against it. Whenever I have a chance, I always speak against it. I don't want to answer any questions right now. I would like to see this go to the Alaska Native Brotherhood Convention and I can't answer any question right now.

LEE DONNELLY was the next witness asked to testify and he made the following statement:

I haven't got anything to say. I am not answering no questions.

Q. Have you been here for the past year or two?

A. Yes.

Q. You haven't heard about this reservation during that time?

A. No.

Q. You haven't heard about it during the time you were here and after hearing these witnesses this morning you still aren't able to make up your mind?

A. No.

ARCHIE WATSON, age 70, Klukwan, was called as a witness and testified as follows:

Q. Did you understand what was said here this morning about the land included in this proposed reservation?

A. You don't mind if I ask a question or two? The way this proposal was made was by man or woman and if you want the details you'll have to go to them to get the details. I have heard all the questions you asked and you just listen to me. I am going to tell you people who are representing the Government. These things come through the Government and your surveyors come in. You have surveyors--we don't know what they are. It was through the whiteman's work that this surveyor's line came into our land. The Government men come any time they see a chance and do anything they want to do. I listened to all the questions and statements this morning and as far as my knowledge of our land goes, this boundary is just like a door to our other nations and down the other

way to Berner's Bay. That is the claim that we had been thinking about all this time. There was a little trouble about it according to the surveyor's mark and when that trouble came up they told us that the whole thing was going to be surveyed over. What surveyor did that, I ask you. These surveyors put in marks along here and I wonder if that is what is called a proposed reservation. I understand all the questions you have been asking. You people are educated as lawyers. I do not know anything about that. You have been asking us questions and now I am going to ask you a question. Are you going to grant us all the land that we want, that you have been asking us about? Are you ready to grant us all this reservation?

12. FOLLA: Nobody here has the authority to say that. That is up to the Secretary of the Interior. Now we would like to ask you some questions. That is why this is being written down--so that it can be sent to the Secretary and he can determine from what has been said here what can be done.

Q. Are you in favor of a reservation or against it?

A. I am in favor of that. I am not thinking of myself any more. I am thinking of future generations.

Q. Are you in favor of this particular proposed reservation, or do you think it should be bigger?

A. I told you the story already. The reason why things have been slowed up is because of the World War. Things haven't been done as quickly as they would have been done if there wasn't a war.

Q. How big do you think the reservation should be?

A. Up to the boundary line and down to Berner's Bay. It is our land that is going to be taken over by someone else. The reason we want it that big is for future generations.

Q. Is it harder for your people to make a living now than it was when you were a boy?

A. I have been listening to the questions that you have been asking all these witnesses and I tell you how big I want the land. I tell you this and ask you if you are ready to grant that land.

JOHN WILLARD, age 50, Klukwan was the next witness called to testify:

Q. Are you familiar with the land included in the boundaries of Exhibit A?

A. Why is it called that way?

Q. It is bounded by Salmon River on the north, the Chilkat River on the east and Chilkat Lake on the west. Are you familiar with that land?

A. I know where the river runs.

Q. Are you familiar with the land described?

A. Yes, I am familiar with it.

Q. Are you in favor of having the land reserved for the Klukwan people?

A. I would like to say this about what you have proposed on that map. Who makes this proposal and leaves this lake out?

- Q. That is what I have been trying to find out all morning.
- A. We do not favor the proposed area as you have it here. I don't think the Klukwan people agree with that.
- Q. Because it is too small or because it isn't of any value to your people?
- A. This proposed area is of no value at all. You can't even kill rabbits in that area.
- Q. You don't know any more than the others who it was who decided on these boundaries?
- A. No.
- Q. It is a mystery here in Klukwan, is it?
- A. As for me, I do not know.
- Q. Are you in favor of a larger reservation?
- A. Yes, if the ground is bigger we can make a living from it.
- Q. How much bigger do you think it should be?
- A. From south Berner's Bay because in that lake we can fish; all the way up the Chilkoot up to the marker where the fish canneries have their markers.
- Q. My question was not what the area was used for, but how big an area should be included in the reservation.
- A. The land will be valuable to us. That is what I am telling you. It should be all the way from Berner's Bay up the valley to Chilkat Lake.
- Q. On both sides of the Chilkat River up to the mountain tops?
- A. Yes, up to the boundary line.
- Q. Why is it necessary for the people of Klukwan to have a reservation?
- A. It is going to help us to make our living here and the whiteman will not bother us.
- Q. Is it harder for you to make a living now than in the past?
- A. It is harder now since the whiteman began to come into our land, make trails and highways and things.
- Q. Are you afraid that more whitemen will come and make it still harder?
- A. Yes.
- Q. This land that you have described that should be in the reservation, is it the land that you and your people from time immemorial have used?
- A. Yes, this is our land from the time of our great-grandfathers.
- Q. The Haines people used the same area with the Klukwan people?
- A. Yes.
- Q. Do you want to add to anything that was said?
- A. I want to ask this question. Just what kind of a reservation do you want us to have?
- Q. We are not trying to compel you to take any reservation. We are trying to find out from you whether you want a reservation.

A. We don't understand this reservation. Among you white people you just don't jump to conclusion to anything that you don't understand at all. When you get the understanding, then you take the action.

MR. FOSTER: We would like to make it clear here, Mr. Willard, that as far as we are concerned we are trying to force nothing on you. We are not trying to sell you a bill of goods at all.

PAUL WILSON: Mr. Chairman, may I speak a minute?
MR. SILVERMAN: Certainly.

MR. WILSON: What is a reservation?
MR. FOSTER: A reservation is an area of land set aside from the lands which have been occupied from time immemorial by your ancestors down to your own people, an area set aside from land that is naturally yours until the Federal government extinguishes the title. That land is set aside for the exclusive use of you and your people, all your people, but not as one individual person.

MR. WILSON: Can that individual get a title to that area of land? The title is still with the Government?

MR. FOSTER: The title is with your people.

MR. WILSON: It is still government property?

MR. FOSTER: Yes.

MR. WILSON: All you have is the use of it?

MR. FOSTER: Yes, you have control of the use of it.

MR. WILSON: That is what these people have been trying to ask. What is the qualification of a witness here?

MR. FOSTER: It is a public affair and if you so desire, you can appear as a witness.

MR. WILSON signified his desire to appear as a witness and was examined by MR. FOLTA:

Q. Mr. Wilson, is this the first time that the meaning of a reservation has been made known to you?

A. It is the first time that it has been made public. It has never been held in public before.

Q. For the purpose of the record, will you give us your name, age and address?

A. Paul Wilson, age 50, native of Klukwan.

Q. What occupations have you followed since you were a boy?

A. For 20 years I was working on the railroad. Since three years ago I made my living here.

Q. Did you ever go out fishing and hunting in this area?

A. These people have been making their living here, hunting, fishing, berry picking and trapping.

Q. You are familiar with the country that is included in this reservation?

A. This has been the first time I heard of it.

- Q. Is this land particularly valuable to the Klukwan people or are there other tracts that are more valuable?
 A. It is valuable because they get their fish there.
- Q. Have you ever fished or trapped around here?
 A. I have.
- Q. Are you in favor of this reservation?
 A. I am not in favor of any reservation at all.
- Q. Do you think it is necessary to have a reservation to assist the people of Klukwan in making a living?
 A. My own personal opinion is this. If you can't hold title to a piece of ground, what good is it? My stand is this. If you want to sell it, take a part or give it away, as was explained, you can't do it, so I don't see where there is any value in a reservation.
- Q. Also because you can't sell it?
 A. Not only because you can't sell it, but because you can't own it yourself.
- Q. Do you think it will become pretty difficult to make a living if more whites come in?
 A. You can make a hard time of it yourself. It is up to the individual. If he has the guts, he can make a go of it.
- Q. Do you believe then that the Natives are ready to go out and compete with the white people for a living?
 A. We have been doing it right along. We pay our own taxes, school taxes and any other taxes. Whatever laws are produced by the whites we must obey them and have to have them too. If a man can't make a living, that is his own bad luck.
- Q. Of course you understand that a person doesn't have to stay on a reservation?
 A. Yes, but my point is that if you can't hold title to it there is no point in staying there. You can see for yourself these people do not understand what is going on here today.
- Q. Were you here when Mrs. Perkins explained the reservation?
 A. This is the first time I have been here.
- Q. Have you been to any meeting about a reservation?
 A. I have never been at a meeting or discussion about this reservation. That is what the people don't know; who is responsible for that particular staked out reservation?

MR. WAKAMAKER asked:

- Q. How much reservation has Hyaburg and Kake proposed?
 A. They haven't made up their minds yet.

MR. WAKAMAKER: Then I think Mr. Hotch is right when he says this should be through the Alaska Native Brotherhood.

MR. FOSTER: As far as we are concerned, we are not trying to sell you a bill of goods at all. We assumed that this was the request of your own people made back in 1943, according to the record. As far

as I am concerned as your General Superintendent, I am here to explain these things. All you have to do is ask for it and we will walk out as quickly as possible. We want that made perfectly clear.

MR. WILSON:

I believe the question which was just asked was never understood by our people. They have the idea that you are trying to give us a bigger piece of land than we now have. That is why they come out with this question. The whole idea is that they have an idea that you are trying to enlarge the reservation.

MR. ALLEN:

I offer subject to the conditions previously stated, the statements of the following as evidence: Mrs. Patsy Davis (Exhibit "A"); Austin Hammond (Exhibit "B"); Mrs. Mildred Shanks (Exhibit "C"); Paddy Coanette (Exhibit "D"); Laura Ketch (Exhibit "E"). These statements were given at the time and place stated in connection with the previous statements offered.

MR. KING:

Mr. Foster, you are the first person to explain the reservation to us. This morning you stated that anybody on a reservation has the right of land. You didn't bring that point out until just now that he has no title to the land. The only thing we have is the right to vote as was brought out here today. Therefore, I don't think anybody would favor the reservation.

(You seen because you can't get the title?

A. That is right.

Q. Because each individual can't get the title?

A. That is right.

MR. KING:

The way it was in the minds of the people that the Government would give title eventually when the land was cut up. Now I don't think there is a man here who wants a reservation under those conditions which you have set forth.

MR. FOSTER:

Mr. King, I am surprised at your memory. On September 3 when you and representatives of this community were in our office excited over the fact that the hearing was to be held on September 15, excited because you had not received proper notification of this hearing and at this time you made the statement that the people were out fishing and there would be no one at the hearing—apparently you have forgotten all about your conversation at that time for during our discussion of the proposed hearing I explained to you and John Willard in detail what a reservation was and it was made clear to you that you could not get title to your land as individuals but that this land was held in trust for your people as a whole by the Federal Government so that no one could take it away from you; so that the people would always have a home, a place where they could hunt, trap and fish and not be molested. I explained to you at this time that in the States the Indian Office had established many new Indian reservations whereby the people were given land assignments. The tribal councils had complete control of these land assignments. Now a land assignment, Mr. King, is a piece of land that is turned over to a family for their exclusive use as long as they make good use of it. That land stays in the hands of that family from then on as long as they properly use it. If the husband dies, the land still remains in the hands of the wife and she in turn can arrange for some other member of the family to use the land. When she passes on her will can definitely state which member of the family is to continue to occupy that land. The people never get a free title to the land to the point where they can sell it or dispose of it, but as long as they properly use it no one in any way can molest them or cause them any trouble. The tribal council controls the use of all land on a reservation. I want to state again, Mr. King, that both Mr. Coeslin and myself told you plainly that your people would never get individual title to the land set aside in the Klukwan reservation.

MR. SILVERMAN: Anybody else who would like to be heard?

MR. ROSTER: Mr. Silverman, I would like to call to the attention of the Klukwan people that they have been living on a reservation ever since 1913. This reservation consists of 1121-5/10 acres. The people have been living here in complete freedom as far as any domination is concerned by wardship and Indian agent or action by the Indian Office. They have had their Indian Service teacher here consistently. Some of the terrible things that presumably come from a reservation has happened to these people since 1913. They have not been deprived of their right to vote. They get their old-age pensions and have every right that every citizen has with the exception of a title to a piece of this land that they could sell or dispose of without the approval of the Government. Mr. King, the only difference between the proposed reservation and the reservation that you have been living on since 1913 is simply the size. The proposed reservation is many times as large as your present reservation.

MR. SILVERMAN: (To the interpreter). Will you indicate that anybody who favored a reservation earlier today and didn't know that they would not get free simply title to it, that they now indicate any change?

MR. WILLARD: This reservation business, I am not in favor of it. I don't like to work for anybody for nothing at all. Therefore, I am not in favor of this reservation business the way it was explained to us.

MRS. WASSER made the following statement:

The older people have been living on this reservation in the past and now we are opposing this reservation because we don't want our younger people to live on reservations. I want my children to be educated. I want them to be educated as well as any whites of our country. I am looking after my own children, raising my own children. Some of them are supporting themselves now. One of them is working in a Government school. When the boy was in Wrangell Institute he was sent to pick up 100-pound packs. It was too much for him. The boy strained himself. The Government schools claim they are trying to help us, yet they want us to live on reservations. I sent my other boy to the Sitka School and I wanted him to continue his fight for his own people. We want to be independent just like yourselves. We want to be able to support ourselves and to be able to educate our children. For this reason I don't want this reservation. I want my children to be educated and free people like real American citizens.

Statement by MR. ROSTER:

This is what we are fighting for and we have an organization among our own people and our constitution says for us to go forward and not to look back at all. I am fighting against reservations. I was the first one to oppose this move that the Government wanted us to make. Paul was the second person today to do this the way I did. That is why I want my people to continue to go forward and it is our aim in the Alaska Native Brotherhood. I want you to bear in mind, my friends, that we shall continue to march forward from now on and don't lay down at all. Let us continue to go forward!

Statement by MRS. WILLARD:

What is the matter with the Government management? Nobody seems to know what reservation is at this hearing. Nobody seemed to know anything about it. Somebody proposed a reservation which nobody knows anything about. We never knew what was proposed until today. We never knew what was proposed and what was given to us. I had never heard anything like that until today. I have children and many grandchildren. I am against the reservation. We had a reservation but yet the Government took our young people and we paid school taxes and every other kind of taxes. This is Klukwan. The river is called Chilkat. I was raised here. We have never known anything about whitemen. We have lived on our own land. Whitemen came to us in recent years. Supposing we went down to the States and claimed land there. We were born here. We never asked for whitemen. When whitemen steals our

land we never ask for titles. Nature provided for us and we live right in it. The range of mountains on both sides fence us off. Is this the first time that we have been around here that we should be put on reservations? This has been our home for generations. The people know their own trails from the very beginning of time. White people have just come and they have followed our trails. We never knew anything about Government and we were self-supporting Indians in our own community. The Indian people are here. They are paying taxes, whatever taxes that are imposed upon them. We might have said when the whitemen came, "This is our land," and driven them away. Now we are told that the land belongs to the Government. We never said anything like that to the whitemen. Some of our young people have joined the Army and fought for a good cause--to protect our land. White people and children have been in the Army to protect their own lands. Why should they put us on a reservation? We are free people.

Statement by MRS. KLUKWAN

This is not my land or country. I was married to a man from Klukwan. I know what has been going on ever since I have married this community. My father-in-law has been telling me what has been going on and I am quite familiar with all those Klukwan questions. As I listen I begin to understand what is being proposed and what is being put forth to our people. We never understand or hear details of things. The Government wanted to help us and do what is right. Now they want to put us on a reservation. Things were easier before. It is hard to make a living now. Whitemen are coming in and are driving us out. They are giving new names to our places and we had our own names for this land. I give up my son in this World War and he was in the Army. We take part the same as any whiteman but yet they limit us to our claims. The people themselves are asking and discussing that. We seem not to make any progress. We just circle around in one place when our young people attempt to progress.

The question was again asked if anyone desired to present any additional statements or depositions; to which there was no response.

MR. SILVERMAN, the Presiding Officer, announced that the hearing was adjourned.

EXHIBITS

April 27, 1943, issued pursuant to authority contained in the Act of May 31, 1933 (52 Stat. 593), containing 320 acres; and,

The area described as: Beginning at a point on the divide between the stream flowing into Chilkat Lake and the stream flowing into the Saklin River, approximate latitude $135^{\circ}26'30''W$, approximate longitude $59^{\circ}17'06''N$. This point is approximately 1-3/4 miles south from the right bank of the Chilkat River as shown on sheet No. 9, International Boundary between United States and Canada, 1923 Edition. Thence, following down right bank of stream to Chilkat Lake; thence along easterly shore of Chilkat Lake and stream to the Salmon River; thence along right bank of Salmon River to the Chilkat River; thence southeasterly along right bank of said river to a point due north of the place of beginning; thence south approximately 1-3/4 miles to initial point, containing approximately 12,300 acres.

(Sgd.) Oscar L. Chapman
Acting Secretary of the Interior

August 14, 1946

NOTE

Land Order quoted above appeared in 11th Federal Register, 9142, August 22, 1946.

CODE OF FEDERAL REGULATIONS
TITLE 43--PUBLIC LANDS; INTERIOR

Chapter I--Bureau of Land Management
Appendix--Public Land Orders

Public Land Order 324

ALASKA

WITHDRAWING PUBLIC LANDS FOR CLASSIFICATION AND PROPOSED
DESIGNATION AS NATIVE RESERVATIONS FOR INDIANS
OF THE VILLAGES OF RABROH AND KLUKWAN, AND
VICINITY.

By virtue of the authority vested in the President, and pursuant to Executive Order No. 9397 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights and to existing withdrawals, the following described public lands in Alaska are hereby temporarily withdrawn from settlement, location, sale, or entry and reserved for the purpose of classification and proposed designation under section 2 of the act of May 1, 1936, 49 Stat. 1250 (U.S.C., Title 43, sec. 333a), as a native reservation for the use and occupancy of the native inhabitants of the native village of Klukwan, and vicinity, Alaska:

The tract of land at Klukwan, near the mouth of the Chilkat River, near latitude $59^{\circ}30'$, longitude 136° , that was reserved and set apart for educational purposes by Executive Order of May 4, 1907, containing approximately 0.16 of an acre;

The lands on the left bank of Chilkat River included in Sec. 32, S $\frac{1}{2}$ Sec. 33, S $\frac{1}{2}$ Sec. 34, T.28 S., R. 56, E.; NW $\frac{1}{4}$ Sec. 5, NE $\frac{1}{4}$ Sec. 6, T.29 S., R. 57 E., Copper River Base and Meridian, that were reserved for the use of the natives of Alaska residing then or thereafter at the Village of Klukwan by Executive Order No. 1764, of April 21, 1913, as modified by Executive Order No. 3673, of May 15, 1922, containing approximately 800 acres;

The E $\frac{1}{2}$ Sec. 33, T. 28 S., R. 56 R., Copper River Base and Meridian, that was reserved for school, health, and other purposes by Secretarial Order of

(APPENDIX A)

ALASKA

NOTICE OF HEARING AND PROPOSED DESIGNATION
OF NATIVE RESERVATIONS

Notice is hereby given that public hearings will be held at Juneau and Fairbanks, Alaska, from September 16-21, 1946, the time and place to be announced, for the purpose of determining whether Public Land Order 324, dated August 14, 1946, withdrawing public lands for classification and proposed designation as native reservations for inhabitants of the villages of Barrow and Kluhwan, and vicinity, should be rescinded, modified or let stand and whether the lands described in that order should be designated, under section 2 of the act of May 1, 1936, 49 Stat. 1250 (U.S.C., Title 48, sec. 353a), as native reservations for the use and occupancy of the native inhabitants of the native villages of Barrow and Kluhwan, and vicinity, Alaska. Persons having cause to object to the terms of the public land order or to the proposed designation may present their objections at such hearings.

Joseph T. Flachas, Chief of the Alaska Branch, Division of Territories and Island Possessions, is hereby designated to hold said hearings as the immediate representative of the Secretary, and Irwin H. Silverman, Chief Counsel of the Division of Territories and Island Possessions, shall act as alternate. A designation of the foregoing lands as native reservations will not be made until after such hearings and will not become effective until approval by a majority vote of the natives residing in the area described above, voting in the manner prescribed by section 2 of the act of May 1, 1936, 49 Stat. 1250 (U.S.C., Title 48, sec. 353a).

August 14, 1946.

(Sgd.) Oscar L. Chapman
Acting Secretary of the Interior.

NOTE

Notice quoted above appeared in the 11th Federal Register, 9144, August 22, 1946.

(APPENDIX B)

I, the undersigned, hereby certify that I attended the public hearings relative to the proposed native reservation for the inhabitants of the village of Klukwan, held at Klukwan, Alaska, on October 15, 1946; that I took down the proceedings in shorthand; that I thereafter transcribed said shorthand, and the foregoing pages, numbered 1 to 29, inclusive, constitute a true and correct transcript of the proceedings had thereat.

ROBERT J. DAVIS
Reporter

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PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

SB 796

BILL NUMBER

IDENTIFICATION:

BILL NAME: "An Act establishing the Alaska Chilkat Bald Eagle Preserve; and providing for an effective date."

SPONSOR(S): Ray

RELATED BILLS PENDING: SB 582 (?)
HB 881

DATE INTRODUCED: 2/16/82

REFERRALS Resources

INITIAL RESEARCH:

INITIAL BILL SUMMARY COMPLETED

SUMMARY BY LEGAL DIVISION:
DEPT. OF LAW SUMMARY:

Revised 4/2

SPONSOR CONTACTED FOR BACKUP MATERIALS:

FISCAL NOTE:

3/24 None - Per Red Stoops

AGENCY RESPONSE:

Red Stoops
3/24 Sharon? info + fiscal notes - None
map + knowledge
delivered 3/25 or 26

OTHER INTERESTED SENATORS OR REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS AND/OR GROUPS:

2/26 - Agreement letter *2/1 - Terry Funder amendment memo*
3/15 - Petition from Klukwan - opposed (62 of pop. of 135)
4/1 - Chris letter in support - letter city of Homer re: Eagle + SB 582

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPRATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET: *4/17*

STAFF MEMO TO COMMITTEE:

TELECONFERENCE *4/17* *Shapiro* *Amundson*

BACKGROUND MATERIAL DISTRIBUTED

PSA/PRESS RELEASE

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/CS DRAFTED:

notify - Paul Wellman 766-2234
- Sarah Gillis 586-1432, Ext. 258
- Terry Funder, Upper House Judicial Committee - 460

Amendment number _____

To CS for Sponsor Substitute for Senate Bill 796 (Finance)

Page 5, line 12

After the word "egress.", add the following:

Any permittee, licensee, or other party, person, organization, or other entity which is designated by the private landowner or holder of valid existing rights to exercise the rights of access and egress granted to the private landowner or holder of valid existing rights under this section shall be allowed to exercise such rights.

Page 5, line 18

After the word "preserve.", add the following:

The term valid existing rights shall include but not be limited to valid mining rights, existing mineral leases and subsurface rights.

Page 13, line 27

After the word "section.", delete the last sentence of subsection (a) in its entirety.

Page 14, line 1

Delete "may" and replace with "shall" *The Governor shall appoint members to the council*

Page 19, line 17

Delete "in AS 38.04.910" *Deletes per seum*

Page 20, line 13

Delete the words "and roadside structures"

amth 2

Using CS for Sponsor Substitute for Senate Bill #796 (Finance) as the latest draft;

On Page 19, lines 23 and 24: Change "The management plan shall be based on an existing operational level inventory . . ." to "The management plan should be based on a current operational level inventory completed within the last ten years and updated as future inventory information becomes available."

This was the language contained in the original draft prepared for Senator Ray, and supported by all parties to the consensus.

On Page 4, line 14: Change AS 41.20.506 (a) to AS 41.20: 506 (a) and (b).

On Page 4, line 29: " " " " " " "

On Page 5, line 20: " " " " " "

When these sections were renumbered in recent drafts, the reference to purposes contained in both sections was inadvertently dropped.

APP W.C.

Am # 1

AMENDMENT to CSSB 796 F

In sec. 41.20.507 (d), delete the period and insert a comma and add the following:

and, "subject to the provisions of section 2 of the Bald Eagle Protection Act, 16 U.S.C. 668a, which authorize the Secretary of the Interior to permit the taking of bald eagles for the religious purposes of Indian tribes.

adopted

Page 14,
line 19.

We therefore petition the Legislature to consider the following:

*State loose
all it can
and still
working on
adjudication
now and then
the lands.*

1. Native allotments: We request the State to remove all protests & contests filed against native allotment applications, subject to valid existing rights, made pursuant to the Act of May 17, 1906 (34 Stat. 197 as amended) which were pending before the Department of the Interior on or before December 18, 1971 and which qualify for approval under Section 905 of the Alaska National Interest Lands Conservation Act. Public Law 96-487. Dec. 2, 1980.

2. That all historical and burial sites selected through the ANSCA be protected from further vandalism and destruction by the Department of Transportation, city governments and others.

3. That all State entities be instructed that disputes over the Roads and Rights of Way that exist without approval over Native lands be resolved.

4. That the proposed Fish & Wildlife Advisory Council for the Klukwan area be recognized as the Advisory Board for Preserve Management in addition to its normal functions, rather than create a new board.

5. That our traditional and subsistence use of the entire area not be infringed upon nor neglected to a point where our lands would become inaccessible and

6. That maintenance, snow removal, construction of improvements, drainage ditches, culverts, etc.) be on a regular year-round basis as State law specifies for the public roadways in the Klukwan area.

*Page 2
line 29*

5 field

Page 4

*outside
jurisdiction*

*letter from DNR & DOT + T&H
on 1/11/81
Alaska State of Lands*

HAINES STATE FOREST RESOURCE MANAGEMENT AREA
Legal description of that portion west of Chilkoot Inlet.

All Lands encompassed by:

U.S. Survey 3708, TRACT A, B and C; excluding U.S.M.S. 2206

Township 28 South, Range 56 East of the Copper River Meridian

Section 29: that portion of the N1/2 lying East of U.S.S. 3708.

Section 34: SE1/4 and NW1/4.

Those Mental Health Lands (MH-153) approved in the State Selection letter from BLM dated August 26, 1974, described as follows:

Beginning at corner No. 1 of this tract which is common to angle point No. 5 of U.S. Survey 3708, thence north $02^{\circ}13'51''$ west, 52.639 chains along the survey line to corner No. 2 of this tract which is common to angle point No. 6 of U.S. Survey 3708, thence north $12^{\circ}01'18''$ west, 13.346 chains to corner No. 3 of this tract which is common with angle point No. 7 of U.S. Survey 3708, thence north $53^{\circ}57'42''$ west, 537.070 chains to corner No. 4 of this tract which is common to angle point No. 7-A of U.S. Survey 3708, thence south $0^{\circ}0'30''$ east, 63.06 chains to corner No. 5 of this tract, thence south, $53^{\circ}57'42''$ east, 542.00 chains to corner No. 1 of this tract and angle point No. 5, U.S. Survey 3708, the point of beginning.

Township 28 South, Range 57 East of the Copper River Meridian

A11

Township 28 South, Range 58 East of the Copper River Meridian

A11

Township 29 South, Range 57 East of the Copper River Meridian

Section 36: That portion of Lots 1, 5, 6 and 10 lying east of U.S.S.
3708.

Township 29 South, Range 58 East of the Copper River Meridian

A11

Township 29 South, Range 59 East of the Copper River Meridian

All

Township 29 South, Range 60 East of the Copper River Meridian

Sections 19 through 36

Township 30 South, Range 57 East of the Copper River Meridian

Section 1: That portion of Lot 1 lying east of U.S.S. 3708.

Township 30 South, Range 58 East of the Copper River Meridian

That portion lying east and south of U.S.S. 3708.

Township 30 South, Range 59 East of the Copper River Meridian

Sections 1 through 10: All.

Section 12: All

Sections 14 through 23: All

Section 27: That portion lying west of the Haines
Corporation Boundary

Sections 28 through 31: All

Section 33: All

Township 31 South, Range 58 West of the Copper River Meridian

A11

Township 31 South, Range 59 East of the Copper River Meridian

Sections 6 through 8: All

Sections 16 through 22: All

Sections 27 through 34: All

Township 32 South, Range 59 East of the Copper River Meridian

Sections 3 through 33: All

Sections 34 through 36: That portion lying north of the
Tongass National Forest Boundary.

PROPOSED ALASKA BALD EAGLE PRESERVE
LEGAL DESCRIPTION

Township 26 South, Range 55 East of the Copper River Meridian

Section 12: that portion within USS 3708

Section 13

Section 23: S1/2SE1/4, NE1/4SE1/4, E1/2NW1/4SE1/4, SE1/4NE1/4

Sections 24 and 25

Section 26: E1/2

Section 33: SE1/4SE1/4SE1/4

Section 34: SE1/4, E1/2NE1/4, SE1/4SW1/4, E1/2SW1/4NE1/4,
E1/2SW1/4SW1/4, SW1/4SW1/4SW1/4, SE1/4NE1/4SW1/4

Section 35

Section 36: NW1/4, N1/2SW1/4, W1/2W1/2NE1/4, NW1/4SE1/4, N1/2SW1/4SW1/4,
SW1/4SW1/4SW1/4, NW1/4SE1/4SW1/4, NE1/4NW1/4NE1/4

Proposed Alaska Bald Eagle Preserve, Legal Descriptions, (Cont.)

Township 27 South, Range 55 East of the Copper River Meridian

Section 2: NW1/4, NW1/4SW1/4, W1/2NE1/4SW1/4, N1/2SW1/4SW1/4, NW1/4SE1/4SW1/4, SW1/4SW1/4SW1/4, except USS 3744

Section 3

Section 4: E1/2SW1/4NE1/4, E1/2SE1/4SW1/4, SE1/4NE1/4, S1/2NE1/4NE1/4, SE1/4, NE1/4NE1/4NE1/4

Section 8: S1/2S1/2SE1/4, N1/2SE1/4SE1/4, SE1/4SE1/4SW1/4

Section 9: E1/2, E1/2NW1/4, S1/2S1/2SW1/4, N1/2NE1/4SW1/4, NW1/4SW1/4SW1/4, SE1/4NE1/4SW1/4

Section 10: W1/2, W1/2W1/2NE1/4

Section 15: W1/2, W1/2SE1/4, SW1/4NE1/4, S1/2NW1/4NE1/4, NW1/4NW1/4NE1/4

Section 16: E1/2, NW1/4, N1/2SW1/4, E1/2SE1/4SW1/4, NW1/4SE1/4SW1/4

Section 17: N1/2NE1/4, SE1/4NE1/4, E1/2NE1/4NW1/4, N1/2NE1/4SE1/4, NE1/4SW1/4NE1/4, SE1/4NE1/4SE1/4

Section 21: E1/2, E1/2SW1/4, E1/2E1/2NW1/4, SW1/4SE1/4NW1/4, SE1/4SW1/4SW1/4

Section 22: W1/2, W1/2E1/2, W1/2E1/2SE1/4, W1/2SE1/4NE1/4, SW1/4NE1/4NE1/4

Section 26: W1/2SW1/4, W1/2E1/2SW1/4, SW1/4NW1/4, S1/2NW1/4NW1/4, NW1/4NW1/4NW1/4

Section 27

Section 28: E1/2, E1/2W1/2, E1/2W1/2W1/2

Section 33: N1/2NE1/4, SE1/4NE1/4, NE1/4SE1/4, E1/2NE1/4NW1/4, E1/2SW1/4NE1/4, E1/2NW1/4SE1/4, N1/2SE1/4SE1/4, NW1/4SW1/4NE1/4, SE1/4SE1/4SE1/4

Section 34

Section 35: W1/2, SE1/4, SW1/4NE1/4, S1/2NW1/4NE1/4, S1/2SE1/4NE1/4, NW1/4NW1/4NE1/4, NW1/4SE1/4NE1/4

Section 36: W1/2SW1/4SW1/4

Proposed Alaska Bald Eagle Preserve, Legal Descriptions, (Cont.)

Township 28 South, Range 55 East of the Copper River Meridian

Section 1: SW1/4, S1/2SW1/4NW1/4

Section 2

Section 3: NE1/4, N1/2SE1/4, N1/2NW1/4, SE1/4NW1/4, SE1/4SE1/4,
N1/2SW1/4NW1/4, NE1/4NE1/4SW1/4

Section 4: E1/2NE1/4NE1/4

Section 10: that portion of Mosquito Lake

Section 11: N1/2, N1/2SE1/4, SE1/4SE1/4, NE1/4SW1/4SE1/4 and that
portion of Mosquito Lake in the SW1/4, except USS 3431

Section 12

Section 13: E1/2, NE1/4NW1/4, E1/2SE1/4NW1/4, E1/2NW1/4NW1/4,
NW1/4NW1/4NW1/4, NW1/4SE1/4NW1/4

Section 15: that portion of Mosquito Lake

Section 19: Lot 13

Section 24: E1/2E1/2, NE1/4NW1/4NE1/4

Section 25: Lots 9-11 and 16

Section 26: that portion of Lot 5 and NE1/4NW1/4, south of the Haines
Highway and Lots 1, 12 and 17

Section 27: Lots 5-8, 10, 13, 18, 19 and 22

Section 28: except S1/2S1/2, S1/2N1/2SE1/4, S1/2NE1/4SW1/4 and that
portion north of the Haines Highway

Section 29: except S1/2S1/2S1/2, NE1/4SE1/4SE1/4 and Lots 9, 14, 15 and
18

Section 30: Lot 11 and N1/2NE1/4SE1/4

Section 33: S1/2SE1/4SE1/4

Section 34: S1/2S1/2S1/2

Section 35: Lot 1

Section 36: N1/2N1/2, N1/2SW1/4NE1/4, NE1/4SE1/4NW1/4 and Lot 5

Proposed Alaska Bald Eagle Preserve, Legal Descriptions, (Cont.)

Township 29 South, Range 55 East of the Copper River Meridian

Section 1: S1/2NE1/4NE1/4, N1/2SE1/4NE1/4, E1/2SW1/4NE1/4,
SW1/4SE1/4NE1/4, NW1/4NE1/4SE1/4, NE1/4NW1/4SE1/4

Proposed Alaska Bald Eagle Preserve, Legal Descriptions, (Cont.)

Township 26 South, Range 56 East of the Copper River Meridian

Section 7: S1/2, S1/2NW1/4, SW1/4NE1/4

Section 8: SW1/4, SE1/4NW1/4, SE1/4SW1/4NW1/4, that portion of the S1/2NE1/4 within USS 3708

Section 17: W1/2NW1/4

Section 18

Section 19: W1/2, SW1/4SE1/4

Section 30: NW1/4, W1/2SW1/4, W1/2NW1/4NE1/4, NE1/4NW1/4NE1/4

Proposed Alaska Bald Eagle Preserve, Legal Descriptions, (Cont.)

Township 28 South, Range 56 East of the Copper River Meridian

Section 7: S1/2SW1/4, NW1/4SW1/4, W1/2NE1/4SW1/4, SE1/4NE1/4SW1/4,
SW1/4NW1/4, SW1/4NW1/4NW1/4, SW1/4SE1/4NW1/4, SW1/4SW1/4SE1/4

Section 17: W1/2SW1/4SW1/4, SE1/4SW1/4SW1/4

Section 18: W1/2, SE1/4, W1/2W1/2NE1/4, E1/2SW1/4NE1/4, SW1/4SE1/4NE1/4

Section 19

Section 20: W1/2W1/2

Section 29: Lots 8-11

Section 30: except Lots 1, 4, 5, 8, 15-17 and the NE1/4SW1/4

Section 31

Section 32: except USS 991, USS 2455 and Lots 1, 2 and 24

Section 33: S1/2 except USS 2455 and Lots 18-21

Section 34: Lots 1, 2, S1/2NE1/4SE1/4, W1/2SW1/4SE1/4, SE1/4SW1/4SE1/4

Proposed Alaska Bald Eagle Preserve, Legal Descriptions, (Cont.)

Township 28 South, Range 57 East of the Copper River Meridian

Section 22: NE1/4SW1/4, W1/2NW1/4SE1/4, SW1/4SE1/4, S1/2SE1/4SE1/4,
NW1/4SE1/4SE1/4, E1/2SE1/4SW1/4

Section 26: W1/2W1/2SW1/4, W1/2SW1/4NW1/4

Section 27: E1/2E1/2, N1/2NW1/4NE1/4, SE1/4NW1/4NE1/4

Section 34: NE1/4NE1/4, NE1/4SE1/4NE1/4

Section 35: S1/2NW1/4, S1/2SE1/4, E1/2SW1/4, S1/2NW1/4NW1/4,
S1/2NW1/4SE1/4, NW1/4NW1/4NW1/4, SW1/4SW1/4NE1/4,
SW1/4NE1/4SE1/4, NW1/4NW1/4SE1/4

All of the above are subject to federal power site
withdrawals.

Proposed Alaska Bald Eagle Preserve, Legal Descriptions; (Cont.)

Township 29 South, Range 56 East of the Copper River Meridian

Section 1

Section 2: N1/2NE1/4, E1/2SE1/4NE1/4, NE1/4NW1/4, E1/2NE1/4SE1/4,
NE1/4SE1/4SE1/4

Section 4: SW1/4, W1/2NW1/4, W1/2SE1/4NW1/4, SE1/4SE1/4NW1/4,
SW1/4SE1/4, SE1/4NW1/4SE1/4, W1/2SE1/4SE1/4,
SE1/4SE1/4SE1/4, W1/2NW1/4SE1/4

Section 5: E1/2, E1/2SE1/4SW1/4, SE1/4NE1/4SW1/4, N1/2NW1/4

Section 6: N1/2SW1/4NW1/4, NW1/4SE1/4NW1/4, S1/2NW1/4NW1/4,
S1/2NE1/4NW1/4, NE1/4NE1/4NW1/4, N1/2N1/2NE1/4

Section 8: except SW1/4SW1/4 and S1/2SE1/4SW1/4

Section 9

Section 10: S1/2, S1/2NW1/4, NW1/4NW1/4, SW1/4NE1/4NW1/4, S1/2S1/2NE1/4

Section 11: S1/2, S1/2NE1/4, S1/2S1/2NW1/4, NE1/4SW1/4NW1/4,
N1/2SE1/4NW1/4

Sections 12, 13, 14

Section 15: N1/2, E1/2SE1/4, NW1/4SE1/4, N1/2N1/2SW1/4, E1/2SW1/4SE1/4

Section 16: E1/2NE1/4, E1/2W1/2NE1/4, NW1/4SW1/4NE1/4, W1/2NW1/4NE1/4,
N1/2N1/2NW1/4, NE1/4SE1/4NW1/4, SE1/4NE1/4NW1/4

Section 17: N1/2NE1/4NE1/4

Section 22: N1/2NE1/4NE1/4, NE1/4NW1/4NE1/4

Section 23: that portion of the N1/2NW1/4 lying west of Chilkat Lake

proposed Alaska Bald Eagle Preserve, Legal Descriptions, (Cont.)

Township 29 South, Range 57 East of the Copper River Meridian

Section 4: SW1/4SW1/4, S1/2SE1/4SW1/4, S1/2NW1/4SW1/4, NW1/4NW1/4SW1/4, NW1/4SE1/4SW1/4

Section 5: S1/2, W1/2NW1/4, SE1/4NW1/4, SW1/4NE1/4, S1/2SE1/4NE1/4, SW1/4NE1/4NW1/4, NW1/4SE1/4NE1/4

Section 6, 7, 8

Section 9: S1/2, NW1/4, W1/2W1/2NE1/4, SE1/4SW1/4NE1/4, SW1/4SE1/4NE1/4

Section 10: Lot 1, W1/2E1/2SW1/4

Section 14: that portion west of Haines Highway

Section 15: W1/2, W1/2NE1/4, SW1/4SE1/4, Lots 11 and 12

Sections 16, 17, 18

Section 19: NE1/4NE1/4NE1/4

Section 20: NE1/4, E1/2NW1/4, NW1/4NW1/4, NE1/4SE1/4, E1/2SW1/4NW1/4, N1/2NW1/4SE1/4, SE1/4NW1/4SE1/4, NE1/4SE1/4SE1/4

Sections 21 and 22

Section 23: that portion west of the Haines Highway

Section 25: that portion west of the Haines Highway

Section 26: that portion west of the Haines Highway

Section 27

Section 28: NE1/4, NE1/4SE1/4, N1/2NW1/4NW1/4, N1/2NW1/4SE1/4, SE1/4NW1/4SE1/4, NE1/4SE1/4SE1/4, NE1/4NW1/4, N1/2SE1/4NW1/4

Section 34: NE1/4, NE1/4NW1/4, NE1/4SE1/4, E1/2SE1/4SE1/4, NE1/4NW1/4SE1/4, NE1/4SE1/4NW1/4

Section 35

Section 36: that portion west of the Haines Highway

Proposed Alaska Bald Eagle Preserve, Legal Descriptions, (Cont.)

Township 30 South, Range 57 East of the Copper River Meridian

Section 1

Section 2: NE1/4, N1/2SE1/4, NE1/4NW1/4, N1/2NW1/4NW1/4,
N1/2SE1/4NW1/4, N1/2SE1/4SE1/4, SE1/4SE1/4NW1/4,
SE1/4NW1/4NW1/4

Section 3: NE1/4NE1/4NE1/4

Section 12: NE1/4, E1/2E1/2SE1/4, NE1/4NW1/4, W1/2NE1/4SE1/4,
NE1/4NW1/4NW1/4, NE1/4SE1/4NW1/4, NE1/4NW1/4SE1/4,
NW1/4SE1/4SE1/4

Section 13: NE1/4NE1/4NE1/4

Proposed Alaska Bald Eagle Preserve, Legal Descriptions, (Cont.)

Township 29 South, Range 58 East of the Copper River Meridian

Section 3: S1/2SW1/4SE1/4, W1/2SW1/4, SE1/4SW1/4, SW1/4NE1/4SW1/4,
S1/2SW1/4NW1/4

Section 4: NW1/4, SE1/4, NE1/4SW1/4, W1/2NE1/4, SE1/4NE1/4,
SW1/4NE1/4NE1/4

Section 9: NE1/4NE1/4

Section 10: N1/2, SE1/4, E1/2SW1/4, E1/2W1/2SW1/4, NW1/4NW1/4SW1/4

All of the above subject to federal power site withdrawals.

Proposed Alaska Bald Eagle Preserve, Legal Descriptions, (Cont.)

Township 30 South, Range 58 East of the Copper River Meridian

Section 6: that portion west of the Haines Highway

Section 7: that portion west of the Haines Highway

Section 8: that portion west of the Haines Highway

Section 16: that portion west of the Haines Highway

Section 17: that portion west of the Haines Highway

Section 18: E1/2, N1/2NW1/4, N1/2SE1/4NW1/4, SE1/4SE1/4NW1/4



Alaska State Legislature

SENATE Resources Committee

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

TO: Senate Resources Committee
FROM: Senate Resources Committee Staff
RE: Committee Meeting, 4/7/82
DATE: April 5, 1982

Please find attached background information for
Wednesday's hearing on the following bills:

SSSB 796 TELECONFERENCE 1:30 -3:00 p.m.
Providing for the management of state owned
land in the Haines area, establishing the
Alaska Chilkat Bald Eagle Preserve and the
Haines State Forest Resource Management Area.

3:00 - 4:00 p.m.
SB 880 Sale of royalty oil by the State of Alaska
to Doyon, Ltd.

SB 881 Sale of royalty oil by the State of Alaska
to Tesoro Alaska Petroleum.

The meeting will be held in the Beltz Room.

KLUKWAN IRA CHILKAT INDIAN VILLAGE COUNCIL

Klukwan, Alaska

3/8/82

Attached is a petition addressed to:

THE GOVERNOR OF ALASKA, THE STATE AND HOUSE RESOURCE COMMITTEES, THE LEGISLATIVE BODY, SENATOR BILL RAY, REPRESENTATIVE JIM DUNCAN AND TO WHOM IT MAY CONCERN

All correspondence and/or telephone communications, from addressees regarding this petition, should be directed to:

Mr. James Stevens, President
IRA Council
Box 220
Haines, Alaska 99827
Phones: Home 7662404 Business 766 2805

AND ALSO

Mr. Joe Hotch, Vice President
IRA Council
Box 525
Haines, Alaska 99827
Phone: 766 2556

The Community of Klukwan was not considered as part of the Consensus sign-off, in a letter dated February 26, 1982 to Governor Jay Hammond from the Mayors of the City and Borough of Haines. Therefore; the residents of Klukwan are taking this opportunity to express their overwhelming opposition to any legislative vehicles or legislation that involves land selection or land designation in this area.

BEFORE THE GOVERNOR OF ALASKA, THE STATE AND HOUSE RESOURCE COMMITTEES, THE LEGISLATIVE BODY, SENATOR BILL RAY, REPRESENTATIVE JIM DUNCAN AND TO WHOM IT MAY CONCERN.....

In the Matter of Opposition to State Land Selections in the Haines Borough for the Purpose of Creating a Bald Eagle Preserve and a Forestry Resource Management Area under SB 796 and House Bill 381 or any other State Land Selection Legislation at this time.

A PETITION

Whereas: the Klukwan IRA Chilkat Indian Village Council and/or members oppose any State of Alaska selection or designation of lands within the Haines Borough until letter, dated April 26, 1977, to Mr. John Kelly, Field Solicitor, United States Department of Interior, relating to Trespass on 2.6 million acres of traditional lands is resolved, and

Whereas: the Klukwan IRA Chilkat Indian Village Council has gone on record as in opposition, and

Whereas: the IRA of the Chilkat Indian Village would like to establish that they are a separate entity from Klukwan, Inc., that Klukwan Inc. does not represent IRA, and that IRA may make decisions separate from Klukwan Inc. and that IRA decisions involve the Chilkat Indian Village located at Klukwan and should be respected as such, NOW

We, the undersigned, being all of clear mind and residents of the Village of Klukwan, DO HEREBY PETITION the Governor of the State of Alaska, the State and House Resource Committees of the State of Alaska's Legislative Body, the entire Legislative Body of the State of Alaska, Senator Bill Ray, Sponsor of SB796, Representative Jim Duncan, Sponsor of HB 381 and to whom it may concern to stop all action on SB796, HB381 and any other legislative vehicles that involve State land selection in the Haines Borough until all native lands to include pending native allotments are resolved.

NAME Jerry D. Baker ADDRESS Klukwan AK
L. M. Hater
Klukwan Alaska
Richard P. Hater
Klukwan AK
Hater

Stuart Joyce Jacobs

Klukwan Alaska

Eugene King

Klukwan

Smith Kayalo sr.

Klukwan

Charles E. King, Jr.

Klukwan, AK

Alfred J. Wadsworth

Klukwan

Johnnie Wadsworth

Klukwan

Esther Hatch

Klukwan AK

Helen King - Klukwan

Charles E. King Jr. Klukwan

Charlene Katzeck

Klukwan, AK

Evelyn Hatch

Klukwan

Miriam Sweet

Klukwan

Beverly Hatch

Klukwan

Genevieve D. Stevens

Klukwan

Ruth Kaska

Klukwan

Joy King

Klukwan

Joy Hatch

Klukwan

Evelyn Kaska

Klukwan

Larry Sweet

Klukwan

Virginia Rose Hatch

Klukwan

William King

Klukwan

NAME

ADDRESS

Joe Hatch

Box 525

Annice Hatch gld.

Box 525

Katherine Hatch

Box 525

Lane Hatch

Klukwan

(Margaret Stevens

See Original

(Mark Stevens

(George P. Stevens Sr.

Joseph E. Amus

" "

Will Hatch

496

Frank Hamus

" "

Gene Miller

Richard King

Barrow, Alaska 367

Mary King

Barrow, Alaska 367

Joy & Dawn Parker

Box 368 Alutian Klukwan

Deborah L. Hatch

Box 377 Hammond, Alaska

Janice Kajak

Box 104 Klukwan

Janice Kajak

Box 104 Klukwan, AK

Debbie Kajak

Box 534 Klukwan, AK

Debbie Kajak

Klukwan

Joe Hatch

Klukwan, Alaska

Clarina Hatten
Ethel Hatch
Archie Delaney
Cathol K. Laney
Arona Willard
Jury Strong
Agnes Strong
Henry Strong
Lynn Strong
Theresa Ward
Roberta Donnell
Joni Willard

Klukwan, A.K.A.
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Box 356
Box 356
Box 657
Box 435
Box 435
Box 435
Box 435
Box 368
Box 338
Box 194
Haines, Alaska
Haines, A.K.
Haines, A.K.
Haines, Alaska
Haines, Alaska
Haines, Alaska
Haines, Alaska
Haines, Alaska
Klukwan, Alaska
Klukwan, Alaska
Klukwan, Alaska

Bradley
4/12/82

Original sponsor: Ray

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 796 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the management of state-owned
7 land in the Haines area; establishing the Alaska Chilkat
8 Bald Eagle Preserve and the Haines State Forest Resource
9 Management Area AND PROVIDING FOR AN EFFECTIVE DATE."

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

11 * Section 1. AS 41.20 is amended by adding new sections to read:

12 ARTICLE 16. ALASKA CHILKAT BALD EAGLE PRESERVE.

13 Section 41.20.506. DECLARATION OF PURPOSE. (a) The purpose of
14 AS 41.20.506 - 41.20.525 is to establish the state-owned land and water
15 described in AS 41.20.507^(a) as the Alaska Chilkat Bald Eagle Preserve as
16 part of the state park system. The primary purpose of establishing the
17 Alaska Chilkat Bald Eagle Preserve is to protect and perpetuate the
18 Chilkat bald eagles and their essential habitats within the Alaska
19 Chilkat Bald Eagle Preserve in recognition of their statewide, nation-
20 ally, and internationally significant values in perpetuity.

21 (b) The Alaska Chilkat Bald Eagle Preserve is also established to

22 (1) protect and sustain the natural salmon spawning and
23 rearing areas of the Chilkat River and Chilkoot River systems within the
24 preserve in perpetuity;

25 (2) provide continued opportunities for research, study and
26 enjoyment of bald eagles and other wildlife;

27 (3) ensure to the maximum extent practicable water quality
28 and necessary water quantity under applicable laws; and

29 (4) provide for other public uses consistent with the primary

1 purpose for which the Alaska Chilkat Bald Eagle Preserve is established.

2 (c) It is the intent of the legislature in enacting this legisla-
 3 tion to provide sufficient protection for the purposes for which the
 4 Alaska Chilkat Bald Eagle Preserve is established. Accordingly, the
 5 establishment of the Alaska Chilkat Bald Eagle Preserve and the Haines
 6 State Forest Resource Management Area is determined to represent a
 7 proper balance between the reservation of state public domain land and
 8 water^{*} for bald eagle preserve purposes and more
 9 appropriate for multiple use. Therefore, the legislature determines
 10 ^{*} THERE IS NO
 11 that ~~is~~ need for legislation expanding or contracting the boundary of
 12 the Alaska Chilkat Bald Eagle Preserve in the future, ~~is unnecessary.~~

13 (d) Inasmuch as the area described in AS 41.20.507^(k) exceeds 640
 14 acres, AS 41.20.506 - 41.20.525 are intended to close the area to mul-
 15 tiple use in conformity with AS 38.05.300 and the land is dedicated as a
 16 special purpose site under art. VIII, sec. 7 of the ^{*} STATE constitution.

17 Sec. 41.20.507. ESTABLISHMENT AND MANAGEMENT. (a) Subject to
 18 valid existing rights, the land and water presently owned by the state
 19 and all land and water acquired in the future by the state lying within
 20 the boundaries described in (k) of this section are designated the
 21 Alaska Chilkat Bald Eagle Preserve and assigned to the Department of
 22 Natural Resources for control, development, and maintenance.

23 ^{*} PENDING AND APPROVED
 24 (b) Private land, land selections made by the Haines Borough under
 25 state law on the effective date of this Act, and existing transportation
 26 and utility corridors located partially or completely within the Alaska
 27 Chilkat Bald Eagle Preserve are excluded from the Alaska Chilkat Bald
 28 Eagle Preserve. The commissioner of natural resources may not acquire
 29 private land located partially or completely within the Alaska Chilkat
 Bald Eagle Preserve by eminent domain for any purpose.

(c) Approved or pending Native allotments located partially or

We are strong

held in trust - still private land

1 completely within the Alaska Chilkat Bald Eagle Preserve are not ad-
2 versely affected by the establishment of the Alaska Chilkat Bald Eagle
3 Preserve and all approved allotments and all pending allotments located
4 partially or completely within the preserve ^{* SHALL BE TREATED AS} private land under

5 AS 41.20.506 - 41.20.515 INCLUDING BUT NOT LIMITED TO RIGHTS OF WAY
6 ACQUISITION.

7 (d) The Department of Fish and Game is responsible for the manage-
8 ment of fish and game resources in the Alaska Chilkat Bald Eagle Pre-
9 serve under applicable law and consistent with the purposes of AS 41.-
10 20.506 - 41.20.515.

11 (e) The Department of Natural Resources shall consult with the
12 Department of Fish and Game, the United States Fish and Wildlife Ser-
13 vice, and the Alaska Chilkat Bald Eagle Preserve Advisory Council estab-
14 lished by AS 41.20.515 before adoption of reasonable regulations govern-
15 ing public use and protection of the Alaska Chilkat Bald Eagle Preserve.
16 The Department of Fish and Game shall consult with the Department of
17 Natural Resources and the Alaska Chilkat Bald Eagle Preserve Advisory
18 Council in proposing regulations governing fish and game management in
19 the Alaska Chilkat Bald Eagle Preserve for adoption by the Board of
20 Fisheries or the Board of Game. The Department of Fish and Game and the
21 Department of Natural Resources shall cooperate with the United States
22 Fish and Wildlife Service in its administration of ^{* FEDERAL} laws that govern the
23 conservation of bald eagles.

24 (f) The state land and water described in (k) of this section are
25 closed to mineral entry under AS 38.05.135 - 38.05.280, to commercial
26 harvest of timber, to sale under state land disposal laws, and to muni-
27 cipal selections made after the effective date of the Act. The commis-
28 sioner of natural resources may lease the land described in (k) of this
29 section under AS 38.05.070 - 38.05.105 for a purpose consistent with
AS 41.20.506(a).

1 (g) Continued opportunities for traditional uses of the Alaska
 2 Chilkat Bald Eagle Preserve at levels and by methods and means that are
 3 compatible with the protection of the bald eagle population are guaran-
 4 teed. These historically compatible uses include but are not limited to
 5 hunting, trapping, fishing, berry picking, other subsistence and recrea-
 6 tional uses, operation of motorized vehicles, and the harvesting of
 7 personal-use firewood. The level and method or means of traditional use
 8 shall be permitted to continue subject to reasonable regulation unless
 9 the director of the division of parks, Department of Natural Resources,
 10 after consultation with the Alaska Chilkat Bald Eagle Preserve Advisory
 11 Council, makes a finding that the level or method and means of use is
 12 causing significant resource damage that is inconsistent with the primary
 13 purposes of AS 41.20.506 - 41.20.525. The director of the division of
 14 parks shall hold a public hearing in Haines and Klukwan before restrict-
 15 ing a traditional use permitted under this section.

16 (h) If privately owned land, valid mining rights, existing mineral
 17 leases, subsurface rights on private land, or other valid occupancy is
 18 surrounded by state land of the Alaska Chilkat Bald Eagle Preserve or if
 19 privately owned land, federal land, or state land not described in (k)
 20 of this section, valid mining claims, subsurface rights, or other valid
 21 ^{* ON LAND} occupancy not described in (k) of this section does not have reasonable,
 22 timely, and economically feasible access and egress by means other than
 23 crossing land designated as Alaska Chilkat Bald Eagle Preserve land in
 24 (k) of this section, the director of the division of parks shall grant a
 25 private landowner, a holder of a valid mining claim, ^{* HOLDER OF} mineral lease,
 26 ^{HOLDER OF} subsurface rights, ^{OTHER VALID OCCUPANCY,} or a state agency or federal agency rights necessary
 27 to assure reasonable, timely, and economically feasible access and
 28 egress. The rights of access and egress granted under this subsection
 29 are subject to reasonable regulation and stipulations established by the

Chased

2) director of the division of parks after consulting with the Alaska
 3 Chilkat Bald Eagle Preserve ^{* IN THE FURTHERANCE OF THE PURPOSES AND} Advisory Council to protect the values of
 4 the Alaska Chilkat Bald Eagle Preserve and to minimize adverse environ-
 5 mental impacts in the preserve. The director of the division of parks
 6 shall give favorable consideration to applications for utility rights-
 of-way that are compatible with AS 41.20.506(a).

7 (i) The director of the division of parks and the Alaska Chilkat
 8 Bald Eagle Advisory Council established under AS 41.20.515, in consulta-
 9 tion with the United States Fish and Wildlife Service, the Department of
 10 * INCLUDING BUT NOT LIMITED TO THE CHILKAT INDIAN VILLAGE AND CHILKOOT
 Fish and Game, and other pertinent sources, ^{INDIAN ASSOCIATION} may use information gained
 11 through cooperative resource studies in the development of the management
 12 plan for the Alaska Chilkat Bald Eagle Preserve and in decisions affect-
 13 ing the management and administration of the preserve. The director of
 14 the division of parks and the advisory council shall investigate the
 15 need for additional research to increase knowledge and understanding of
 16 * AND CULTURAL
 the natural resources of the area and to enhance the effective management
 17 of the Alaska Chilkat Bald Eagle Preserve.

18 (j) An agency of the state may not participate or cooperate with a
 19 federal or private study considering additions to or deletions from the
 20 area of the Alaska Chilkat Bald Eagle Preserve without giving 90 days
 21 prior notice to the Alaska Chilkat Bald Eagle Preserve Advisory Council.
 22 The director of the division of parks may waive the notice required by
 23 this subsection on his determination in writing to the advisory council
 24 that an emergency necessitates immediate study or a shorter period of
 25 notice to the advisory council.

26 (k) The land and water owned by the state and all land and water
 27 acquired by the state in the future lying within the following described
 28 parcels are designated as the Alaska Chilkat Bald Eagle Preserve:
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Sec. 41.20.515. ALASKA CHILKAT BALD EAGLE PRESERVE ADVISORY COUNCIL. (a) A 12-member Alaska Chilkat Bald Eagle Preserve Advisory Council is established. The members of the advisory council shall be selected under this section. Members of the advisory council are entitled to the per diem and travel expenses authorized for members of state boards under AS 39.20.180. *or their alternate*

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(b) The governor may appoint individuals to the Alaska Chilkat Bald Eagle Preserve Advisory Council representing the following interests for a two-year term:

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16

(1) a resident of the Haines Borough representing a conservation organization; and

17

18

(2) a representative of the United States Fish and Wildlife Service.

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(c) The mayor of the City of Haines, the mayor of the Haines Borough, the president of Klukwan, Inc., ~~and~~ the chairman ^{men} of the Council * AND CHILKOOT INDIAN ASSOCIATION (OR THEIR DESIGNEE *see above*) of the Chilkat Indian Village, are ex officio members of the Alaska Chilkat Bald Eagle Preserve Advisory Council. The mayor of the Haines Borough may recommend to the governor, *in appointment to the Advisory Council* the name of a resident of the Haines Borough for the representation of commercial or industrial interests.

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(d) The commissioner of fish and game, the director of the division of parks, and the director of the division of forestry, or their designees, serve ~~as~~ ex officio as members of the Alaska Chilkat Bald Eagle

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Preserve

Special area of the

1 Advisory Council.

2 (e) The Alaska Chilkat Bald Eagle Preserve Advisory Council shall
3 assist the Department of Natural Resources in the development and moni-
4 toring of a management plan for the Alaska Chilkat Bald Eagle Preserve.
5 The management plan shall be presented at public hearings in Haines and
6 Klukwan before approval and implementation by the department.

pg 12 *line 24* *(2)* * (F) ALL HISTORICAL, CULTURAL AND BURIAL SITES IDENTIFIED
IN THE CHILKAT BALD EAGLE PRESERVE MANAGEMENT PLAN SHALL BE PROTECTED
BY THE DEPARTMENT OF NATURAL RESOURCES FROM VANDALISM, DESECRATION
AND DISTRUCTION.

7 Sec. 41.20.525. *pg 11 line 11* MISCELLANEOUS PROVISIONS. (a) The establishment
8 of the Alaska Chilkat Bald Eagle Preserve under AS 41.20.506 - 41.20.525
9 does not enlarge, diminish, add to, or waive a requirement otherwise
10 applicable to the management or use of the state land of the Haines
11 State Forest Resource Management Area *(AS 41.15.500 - 41.15.520)* or private land. An activity
12 allowed under law on land *ADJACENT TO* of the Alaska Chilkat Bald Eagle Preserve,
13 including but not limited to timber harvest, mining, resource develop-
14 ment, or recreation, is permitted ~~on private land~~ as long as the activity
15 is conducted in compliance with law.

16 *pg 13* *line 1* *(m)* (b) The director of the division of parks and the director of the
17 division of forestry shall consult in the preparation of the management
18 plan prepared under AS 41.20.507(i) to promote effective, efficient, and
19 coordinated administration of the Haines State Forest Resource Management
20 Area and the Alaska Chilkat Bald Eagle Preserve for the values for which
21 each is established.

22 * Sec. 2. AS 41.15 is amended by adding new sections to read:

23 ARTICLE 3A. HAINES STATE FOREST RESOURCE MANAGEMENT AREA.

24 Sec. 41.15.500. HAINES STATE FOREST RESOURCE MANAGEMENT AREA. (a)

25 The purpose of AS 41.15.500 - 41.15.520 is to establish the land and
26 water presently owned by the state and all land and water acquired in
27 the future by the state lying within the boundaries described in AS 41.-
28 15.510(a) as the Haines State Forest Resource Management Area. The
29 primary purposes for the establishment of the Haines State Forest

1 Resource Management Area are the utilization, perpetuation, conservation
2 and production of the land and water including but not limited to the
3 use of renewable and nonrenewable resources through multiple-use manage-
4 ment and the continuation of other beneficial uses including traditional
5 uses and other recreational activities.

6 (b) The responsibility for the management, control, development,
7 and maintenance of the Haines State Forest Resource Management Area
8 established under AS 41.15.500 - 41.15.520 is assigned to the Department
9 of Natural Resources.

10 Sec. 41.15.510. BOUNDARIES AND MANAGEMENT OF HAINES STATE FOREST
11 RESOURCE MANAGEMENT AREA. (a) Subject to valid existing rights, the
12 land and water presently owned by the state and all land and water
13 acquired in the future by the state lying within the following described
14 parcels are designated as the Haines State Forest Resource Management
15 Area:

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25 (b) Private land, existing transportation corridors, and borough
26 selection within the Haines State Forest Resource Management Area are
27 excluded from the Haines State Forest Resource Management Area. The
28 commissioner of natural resources may not acquire private land within
29 the Haines State Forest Resource Management Area by eminent domain for

1 any purpose.

2 (c) Approved or pending Native allotment applications located
3 partially or completely within the Haines State Forest Resource Manage-
4 ment Area are not adversely affected by the establishment of the Haines
5 State Forest Resource Management Area and all approved allotments and
6 all pending allotments ~~are~~ ^{* SHALL BE TREATED AS} private land under AS 41.15.500 - 41.15.520.

7 (d) The division of forestry shall consult with the division of
8 parks, the Department of Fish and Game, and the Alaska Chilkat Bald
9 Eagle Preserve Advisory Council to promote effective, efficient, and
10 coordinated administration of the Haines State Forest Resource Manage-
11 ~~ment~~ Area and the Alaska Chilkat Bald Eagle Preserve for the values for which
12 each is established.

13 (e) Resource studies undertaken by the Department of Natural
14 Resources shall be designed to benefit the management and administration
15 of the Haines State Forest Resource Management Area and the Alaska
16 Chilkat Bald Eagle Preserve.

17 (f) The establishment of the Haines State Forest Resource Manage-
18 ment Area has no effect on the terms and conditions of an existing
19 permit or contract involving use of the land, water, or other resources
20 of the Haines State Forest Resource Management Area.

21 Sec. 41.15.520. MULTIPLE-USE MANAGEMENT. (a) The Haines State
22 Forest Resource Management Area shall be managed under the principles of
23 multiple use and sustained yield as defined in AS 38.04.910, under
24 AS 41.17, and under a management plan prepared by the Department of
25 Natural Resources. The plan may not be adopted or revised without prior
26 review by the Board of Forestry or without a public hearing held in
27 Haines and Klukwan.

28 (b) The Department of Natural Resources shall periodically review
29 and revise the management plan adopted for the Haines State Forest

1 Resource Management Area under (a) of this section.

2 (c) A copy of a management plan and any revision to it prepared by
3 the Department of Natural Resources, reviewed by the Board of Forestry
4 and adopted by the department after public hearings required under (a)
5 of this section shall be provided to the legislature within 30 days of
6 its adoption or revision or within the first 10 days of the first session
7 of the legislature to convene after its adoption or revision.

8 (d) The Department of Fish and Game is responsible for the manage-
9 ment of fish and game resources in the Haines State Forest Resource
10 Management Area under applicable law and in a manner consistent with
11 AS 41.15.500 - 41.15.520.

12 (e) The control of highway access and roadside structures within
13 the Haines State Forest Resource Management Area is the responsibility
14 of the Department of Natural Resources except that the Department of
15 Transportation and Public Facilities is responsible for the repair and
16 maintenance of public roads in the Haines State Forest Resource Manage-
17 ment Area.

18 (f) The state land and water described in AS 41.15.510(a) are
19 closed to sale under state land disposal laws and to municipal selections
20 made after the effective date of this Act. The commissioner of natural
21 resources may lease the land described in AS 41.15.510(a) under AS 38.-
22 05.070 - 38.05.105 for a purpose consistent with AS 41.15.500(a).

23 (g) The Department of Natural Resources shall consult with the
24 Department of Fish and Game during preparation of a management plan
25 under (a) and (b) of this section and during formulation of regulations
26 governing the use of the Haines State Forest Resource Management Area.
27 The Department of Fish and Game shall consult with the Department of
28 Natural Resources before adopting ~~of~~ regulations governing fish and
29 wildlife management in the Haines State Forest Resource Management Area.

1 Regulations may not be adopted by either department without prior review
2 at a public hearing.

3 (h) The Department of Natural Resources may enter into cooperative
4 management agreements with a person who holds title to or has a valid
5 entry on land within or adjoining the boundaries of the Haines State
6 Forest Resource Management Area.

7 * Sec. 3. The management plan for the Alaska Chilkat Bald Eagle Preserve
8 prepared by the Department of Natural Resources under AS 41.20.507(i) as
9 enacted in sec. 1 of this Act shall be ~~developed~~ ^{Adopted (Resall)} and implemented within two
10 years after the effective date of this Act.

11 * Sec. 4. The management plan for the Haines State Forest Resource Manage-
12 ment Area prepared by the Department of Natural Resources under AS 41.15.520

13 ~~shall~~ enacted in sec. 2 of this Act shall be adopted and implemented within two
14 years after ^{its effective date?} ~~enactment~~ of this Act. The management plan shall be based on an

15 * EXISTING ~~current~~ operational level inventory ~~completed within the last 10 years~~ and
16 updated as future inventory information becomes available. The Haines-Skagway
17 Area Land Use Plan adopted by the Department of Natural Resources in 1979
18 shall be used as the basis for preparation of the initial management plan for
19 the Haines State Forest Resource Management Area. Before approval of the
20 management plan prepared under AS 41.15.520, management of the Haines State
21 Forest Resource Management Area shall be conducted under the land use alloca-
22 tions and the appropriate management provisions of the Haines-Skagway Area
23 Land Use Plan.

24 * Sec. 5. AS 16.20.230(8) is repealed.

25 * SEC. 6 THIS ACT TAKES EFFECT JULY 1, 1982.

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES

SB796
State of Alaska

Division of Research & Development

TO: DISTRIBUTION LIST

DATE: July 23, 1982

JUL 28 1982

FILE NO:

TELEPHONE NO: 465-3400

FROM: Reed Stoops
Director
Division of Research & Development

SUBJECT: 1982 Progress Report
Haines/Klukwan Cooperative
Research Study

Please find enclosed a copy of the 1982 Haines/Klukwan Cooperative Resource Study Progress Report. The legislature has funded the final segment of the project so work should be completed by June 30, 1983.

If you have any questions or wish to see copies of the detailed progress reports, please feel free to contact either Tom Lawson at 465-3400 or Mary Ann Blanton in the Haines Resource Room at 766-2866.

RS/md

cc: Tom Lawson, DNR
Mary Ann Blanton, Haines Resource Room

DISTRIBUTION LIST

The Honorable Bill Ray, Alaska Senate
The Honorable Bettye Fahrenkamp, Alaska Senate
The Honorable Jim Duncan, Alaska House of Representatives
The Honorable Mike Miller, Alaska House of Representatives
The Honorable Ken Fanning, Alaska House of Representatives
The Honorable Lee McAnerney, Commissioner, Dept. of Community & Regional Affairs
Mr. Jim Kohler, DCRA, Community Planning
The Honorable Ernst Mueller, Commissioner, Dept. of Environmental Conservation
Mr. John Halterman, DEC, Div. of Environmental Quality Management
Ms. Deena Henkins, DEC, Div. of Environmental Quality Operations
The Honorable Ron Skoog, Commissioner, Dept. of Fish & Game
Mr. Dennis Kelso, Subsistence Division
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Mr. Jack Sedwick, Department of Natural Resources, Div. of Land & Water Mgt.
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Mr. John Sturgeon, DNR, Division of Forestry
Mr. Paul Maki, DNR, Division of Forestry
Mr. Gary Saupe', DNR, Division of Forestry
Mr. Bob Clark, Office of the Governor
Mr. Mike Whitehead, Office of the Governor
Mr. Dan Bishop, Environaid
Mr. John Sandor, U.S. Forest Service
Lynn Canal Conservation Society
Mr. Jim Stratton, SEACC
Alaska Chilkat Bald Eagle Preserve Advisory Council
Mr. Ed Bugliosi, U.S. Geological Survey
Mr. Joe McCloskey, U.S. Soil Conservation Service
Mr. George Figdor
Mr. Dave Nanney

TO: Billy Berrier
Director, Legal Services

DATE: 4/19/82

FROM: Bettye Fahrenkamp, Chairman
Senate Resources Committee

RE: CSSSSB 796
Additional Language

Attached is language I would like incorporated into the final version of CSSSSB 796.

Attachment

CS SS SB 796

On p.² 1.23 following the word "Act", add:

University of Alaska grant lands which are not located within the existing Chilkat River Critical Habitat Area established by AS 16.20.230(8).

On p.2, 1.27, following the word "land" add: ✓

"University of Alaska grant lands"

On p.4, line 16, following the word "land" add:

"University of Alaska grant lands"

On p.4, 1.25, following the word "landowner" add:

"University of Alaska grant lands"

On p.5, 1.26, following the word "state" add:

"except University of Alaska grant lands"

On p. 7, 1.21 add a new section:

" . . (c) University of Alaska grant lands which are located within the existing Chilkat River Critical Habitat Area established under AS 16.20.230(8) shall not be adversely affected by this legislation and such lands shall be subject to the terms and conditions of the agreement executed between the University of Alaska and the State of Alaska settling University of Alaska v. State of Alaska."

P.8, 1.25 after the word "land" add the following:

"University of Alaska grant lands"

P.8, 1.28, following the word "land" add the following:

"and University of Alaska grant lands"

On p. 11, delete 1.24.

TO: Billy Berrier, Director
Division of Legal Services

FROM: Bettye Fahrenkamp, Chairman
Senate Resources Committee

DATE: 3/31/82

RE: Legal sectional analysis of SSSB 796

The following legislation has been referred to the Senate Resources Committee for consideration:

SBSB 796 "An Act providing for the management of state-owned land in the Haines area, establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area"

In preparation for the hearing on this bill I would like a legal sectional analysis of the bill to be completed by the Division of Legal Services and submitted to the Senate Resources Committee, Room 211 Capitol Building, prior to 4/5/82.

If you have any questions please contact Resa King at 465-3834.

TO; Senate Finance Committee
Members

DATE: 4/19/82

FROM: Bettye Fahrenkamp
Chairman

RE: SSSBSB 796
Background Information

CSSSSB 796 - Providing for the management of state owned land in the Haines Area, establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area - will be referred out of the Resources Committee and has a further referral to the Finance Committee.

Attached for your information are background materials on the bill. If you

Attachments

TO: Billy Berrier
Director Legal Services

DATE: 4/19/82

ATTN: Dick Bradley

FROM: Resa King
Resources Committee
Staff

RE: Technical error
CSSSSB 796

CSSSSB 796 (Res) has been returned to the Committee. In comparing the final and the work draft that was submitted, I note a technical error on page 19, lines 2 - 10.

In the work draft page 11, line 15 the language "completed within the last 10 years" was deleted. Therefore, the reference to "preceding 10 years" on page 19, line 2, 8 and 9 needs to be deleted. Also, in the work draft the word "current" was deleted and "existing" was inserted in its place.

I offer the following language to help page 19 become consistent with the deletion and change on page 11 of the work draft:

Page 19, lines 2 - 10:

"(b) The Department of Natural Resources shall periodically review and revise the management plan adopted for the Haines State Forest Resource Management Area under (a) of this section. The management plan shall be based on existing operational level inventory and revised as future inventory information becomes available to the department."

If you have any questions please let me know. When the bill is completed please return to Room 211 Capitol Building.

Attachments

SB. 796

Native groups asked to back eagle-forest bill

(The Lynn Canal News thanks Ken Bryant of KHNS for providing the notes for this article).

HAINES — Eagles and native allotments both stand to gain if the bill establishing an eagle preserve and a state forest resource management area is passed.

That was the message Merrill Palmer gave to a combined meeting of the Chilkoot Indian Association, the Tlingit and Haida Council and members of the Haines Alaska Native Brotherhood and Sisterhood Monday.

"Obviously, we can't solve all the land problems and we can't change history, but we can learn from history," he said. "The Tlingit people are as important as any bald eagle, which is why we have wrote (sic) into this bill as strong as we could all of the traditional uses that we could possibly write in."

In his efforts to get the Native people to reconsider their decision to oppose the preserve bill, Palmer asked that they be willing to sit down and iron out problem areas.

"This is your chance to gain something, but you can't do it unless you are willing to work on the bill," he said.

"If you just oppose it, it ends and nothing can be done."

Fear that Native allotments would be adversely affected by the bill appears to be the main concern of those who oppose the bill. A petition signed by 61 Klukwan residents who were against the preserve and state forests earlier this month listed a 2.6 million-acre trespass suit against the federal government, and a 12,800-acre reservation request in 1949 as their prime concerns. They feared the bill would interfere with the settlement of those claims.

Joe McGee, Tlingit and Haida Central Council reality officer, told the group that neither the trespass suit nor the reservation offering are still current.

The trespass suit was settled in court he said, adding that reservation was never agreed upon by the Native people and is now void.

McGee indicated that he thought the bill is a good one for the Native people.

"This bill will bring to the attention of the Department of Natural Resources that many of the land applications have been pending for 30 or 40 years," he said.

Palmer agreed, saying that the state is the one who is contesting all of the

MARCH 29, 1982

PUBLIC SERVICE ANNOUNCEMENT

BILL ESTABLISHING THE CHILKAT BAY WAGLE PRESERVE AND THE HAINES STATE FOREST RESOURCE MANAGEMENT AREA TO BE HEARD ON THE TELECONFERENCE NETWORK.

THE SENATE RESOURCES COMMITTEE, CHAIRED BY SENATOR BETTYE FAHRENKAMP, WILL HOLD A TELECONFERENCE HEARING ON SSSB 796, WEDNESDAY, APRIL 7, 1982 1:30 - 3:00 P.M. PACIFIC STANDARD TIME.

SSSB 796 HAS BEEN PROPOSED BY THE AREA RESIDENTS AS A RESOLUTION TO RESOURCE CONFLICTS IN THEIR AREA.

AREA RESIDENTS INTERESTED IN PRESENTING TESTIMONY OR OBSERVING THE HEARING MAY PARTICIPATE VIA THE LEGISLATIVE TELECONFERENCE NETWORK AT HAINES.



National Audubon Society

ALASKA REGIONAL OFFICE
308 G STREET, SUITE 219, ANCHORAGE, AK 99501 (907) 276-7034

TESTIMONY OF THE
NATIONAL AUDUBON SOCIETY

REGARDING SB 796 PROPOSING ESTABLISHMENT
OF THE ALASKA CHILKAT BALD EAGLE PRESERVE AND
THE HAINES STATE FOREST RESOURCE MANAGEMENT AREA

BEFORE THE
SENATE RESOURCES COMMITTEE
ALASKA STATE LEGISLATURE

JUNEAU, ALASKA
APRIL 7, 1982

Dear Madame Chairman:

My name is Dave Cline, and I am testifying today on behalf of the National Audubon Society and its more than 2000 members in Alaska, and 450,000 nationally.

Having been involved in helping conserve Alaska's wildlife heritage since 1916, and with the Chilkat bald eagles since the late 1960's, our organization sees SB 796 as an unprecedented compromise between diverse interest groups. We urge its prompt passage to resolve long-standing land and resource conflicts in the Chilkat Valley of southeast Alaska.

Although endangered or threatened with extinction in the Lower 48 states, scientists believe that the bald eagle may be starting to make a comeback. This is only because of the cooperative efforts of federal and state wildlife agencies, conservation and industrial groups, scientists and private citizens throughout the nation. These efforts, and those which have led to this consensus legislation now before you, are truly indicative of the spirit of cooperation and perseverance which is at the very heart of our state and national character.

Audubon recognizes the fall and winter concentration of northern bald eagles along Chilkat River as representing the largest known population of bald eagles in North America. This annual

gathering of more than 3500 eagles on their "council grounds" constitutes one of our nation's greatest wildlife spectacles.

As pointed out in the Anchorage Daily News editorial of April 7, 1982, efforts to save the bald eagle are symbolic of the struggle to preserve America's Wildlife heritage. In a world fast running out of wildlife, whether on the African savannas or in the tropical rain forests of South America, what happens to 3500 bald eagles along a 3-5 mile stretch of river in southeast Alaska, is of growing concern to millions of people in the United States and other countries. This resource treasure will, therefore, only become increasingly valuable in time. Thus, it should be of considerable concern and interest to all Alaskans, including those in the tourism industry.

For the past four years Audubon has been participating in a cooperative study of bald eagles and other public resources in the Chilkat Valley. The principal intent of these unprecedented cooperative efforts has been to help find an "Alaskan solution" to land and resource conflicts through cooperation and consensus, rather than confrontation and litigation. We believe that if a balanced solution is found, it could serve as model for resolving such conflicts elsewhere in Alaska where resources of state, national and international significance are at stake. We think that model solution is SB 796.

Since the legislation represents a consensus, it is understandable that no one is totally happy with it. For example, the majority of conservationists feel that the eagle sanctuary should be much larger, and that it is worthy of national (congressional) rather than state designation.

There has been considerable give and take on all sides during four years of hard work to develop this consensus bill. Since Audubon believes that boundaries are being placed around the backbone of the local fishery, and most essential eagle habitat, we remain strongly supportive of its passage. We also see the legislation causing minimal conflict with proposed resource development in the Chilkat Valley, and with private interests including those of the Natives. In fact, the legislation was purposely designed to protect, not threaten these interests.

It is also important to recognize that the legislation provides opportunity for maximum local participation in planning and management of the two units. Ongoing cooperation between the eagle preserve and forest managers is assured to meet the broad public interest mandates of the legislation including the application of sound land use practices on the state forest acreages to avoid adversely affecting water quality, fish and eagles in the preserve.

The legislation is cost effective to all concerned, and provides for no new or greatly expanded bureaucracy to make it work. The State of Alaska has lead responsibility in management. All these factors are consistent both with the new federalism, and legislative austerity in regard to management of the state's finances.

If this consensus legislation is not passed, what I see happening includes the following:

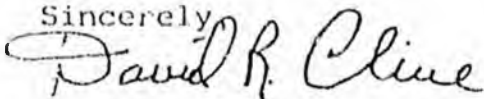
- * Vigorous efforts within the national conservation community to seek a federal (congressional) solution because of the state's unwillingness to act on a consensus agreement.
- * Tarnishing of Alaska's image on the national scene, with the debate over how best to protect the Chilkat eagles again spilling beyond Alaska's boundaries. The upcoming film on Alaska that is to be aired on national television later this month will show what Alaskans are doing to use their resource bounty wisely. There will be a major segment on the Chilkat eagle issue in the film. Depending on the outcome of this legislation, Alaska's image could be either enhanced by the film, or result in there having a lot of explaining to do.
- * Ongoing disputes between diverse resource user groups in the Chilkat Valley.
- * Expenditure of significant amounts of public and private funds to protect these diverse user group interests.
- * The need to continue the "moratorium on development" now in place on approximately 55,000 acres of state land in the Chilkat Valley to assure that essential fish and eagle habitats are not adversely affected until a legislative solution is found.

National surveys of public attitudes toward animals indicate that the bald eagle is one of the most popular of wildlife species. It is not only a beautiful species of bird, but the emblem of our nation, and of the Tlingit eagle-clan. Therefore, millions of people will be celebrating this, The Bicentennial Year of the American Bald Eagle. It was 200 years ago that America chose the bald eagle to symbolize its ideals of freedom.

On January 28, 1982, President Reagan signed a proclamation designating June 20, 1982 as "National Bald Eagle Day". In his proclamation the President stated: "I call upon the people of the United States to join in these observances with appropriate activities in their homes and communities". What more appropriate way for Alaskans to demonstrate their concern for our natural heritage, as symbolized by the bald eagle, than to establish an Alaskan Chilkat Bald Eagle Preserve and adjoining Haines State Forest Resource Management Area.

Thank you for your time, interest, and for your understanding.

Sincerely,



David R. Cline
Regional Vice President

TO: Senator Fahrenkamp
Chairman

DATE: 4/8/82
Thursday

FROM: Resa King
Staff

RE: SSSB 796
Haines Eagle/Forest Bill

I met for four hours today with representatives from the various interested groups on the Haines Eagle/Timber bill. The working group was able to resolve most of the questions raised in Mr. Bradley's April 2, 1982 memorandum. These are being incorporated into a memorandum to our Legal Section requesting a Work Draft Committee Substitute for SSSB 796.

Unfortunately, Klukwan and their representative from the Tlingit-Haida Central Council (due to schedule conflicts) could not continue to meet with the group in the afternoon, Friday, Saturday or Monday. The first time they would be available to meet again is on the afternoon of Tuesday March 13, 1982. All parties agreed to the next meeting date. At the March 13th meeting Klukwan will be coming forth with specific amendments to resolve their specific concerns with SSSB 796. At that time the working group will review the amendments and make a recommendation to the Senate Resources Committee.

Im Attendance

Jon Halliwell - Mayor Haines

Meryl Snyder - Haines

Steve Selors - Attorney

Mike DeMarr - T & H. Central Council

Joe Hatch + _____ : Klukwan

m/m Ray Menaker

Dave Klone outboard society

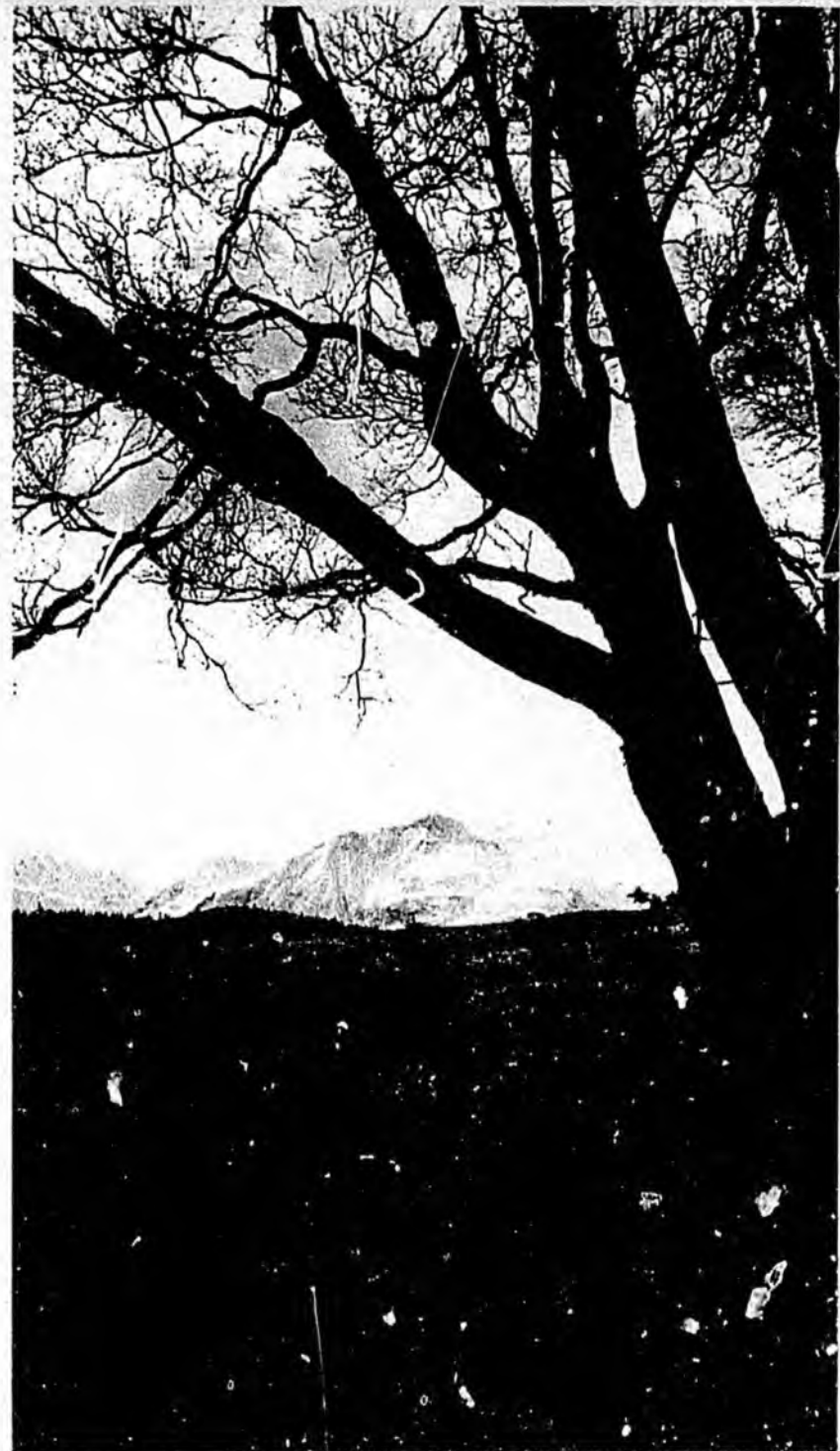
Red Straps - DNR

cc: Dick Bradley - Legal Services

Observing: Marcia Johnson, U.S. Forest Service

**HAINES
KLUKWAN
COOPERATIVE
RESOURCE
STUDY**

June 1981 Progress Report



Haines Klukwan Cooperative Resource Study June, 1981

This study was prepared under the direction of the
Haines Klukwan Cooperative Resource Study Advisory Committee.

Committee Members:

City of Haines, Jon Halliwill, Mayor
City of Klukwan, Bill Thomas, Klukwan, Inc.
Alaska Department of Fish and Game, Dick Logan
National Audubon Society, Dave Cline
U.S. Fish and Wildlife Service, Jack Hodges
Alaska Department of Natural Resources, Reed Stoops
Alaska State Legislature, The Honorable Jim Duncan

This project was funded by:

Alaska Department of Natural Resources
Alaska Department of Fish and Game
National Audubon Society
U.S. Fish and Wildlife Service
U.S. Soil Conservation Service

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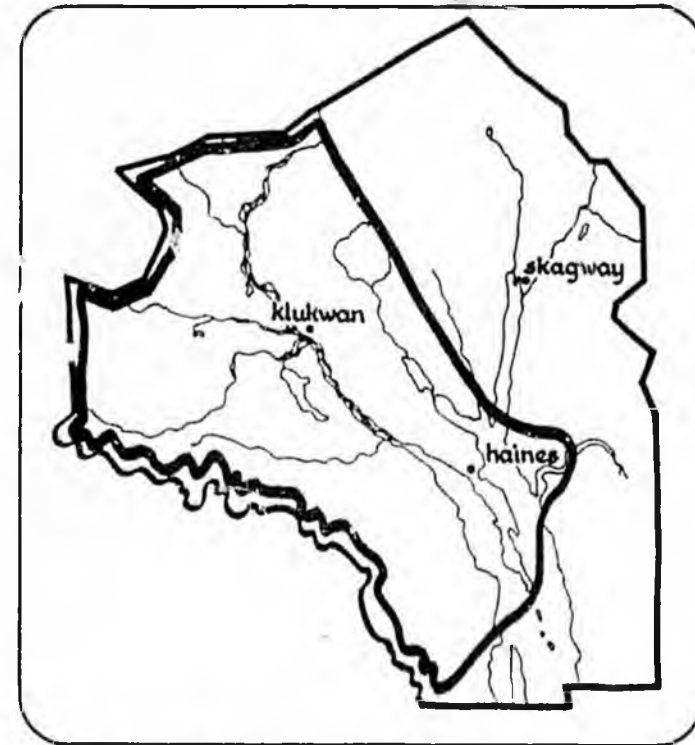
Introduction to the Haines Klukwan Cooperative

Resource Study 1981 Progress Report

Under ideal circumstances, resource managers have the benefit of comprehensive resource investigations prior to the initiation of significant development activities. Many times, however, resource managers must use the best existing information to assess the likely impact of one development activity on other valuable resources in the same ecosystem.

In the case of the Haines-Skagway Land Use Plan, adopted in 1980, land was allocated to various resource uses based on the best available information. Subsequently, a state timber sale was held. The sale involved approximately 60,000 acres of state commercial forest lands which the plan allocated for that purpose. That sale, of great importance to the community of Haines, was challenged in Superior Court and upheld. Timber harvest under the sale is proceeding, however, the Superior Court decision has since been appealed to the State Supreme Court.

Debate over the Haines Skagway Land Use Plan and the subsequent timber sale also took place in Washington, D.C. during deliberations on the Alaska National Interest Lands Conservation Act which became law in December, 1980. Concerns were raised by those who perceived timber harvest as a potential threat to other resources, most notably a large winter concentration of bald eagles on the Chilkat River. The National Audubon Society had initiated its own study of bald eagles in the Chilkat Valley. The communities of Haines and Klukwan had initiated their own local multi-resource study to look at the interrelationships of all resources found in the Chilkat Valley. To satisfy these concerns, a compromise was reached in which the principle state and federal land management agencies with jurisdiction for the various resources agreed to a three year cooperative resource study. The results of the study may lead to adjustments in land allocations and will provide the basis for a detailed forest management plan as required by the Haines Skagway Land Use Plan. Management guidelines based on information gathered by this cooperative study will be designed to allow development or use to take place without unacceptable impacts on other resources. With this approach, it should be possible for the communities of Haines and Klukwan to satisfy local social and economic objectives while maintaining important state and national interests in this unique area.



Map #1 - Study Area

To direct these important resource studies, an advisory committee was created in June, 1980. Its current members include representatives of the Alaska Department of Natural Resources, the Department of Fish and Game, the U.S. Fish and Wildlife Service, the National Audubon Society, the City of Haines, the City of Klukwan, and the Alaska State Legislature. During the first year this committee set individual study

objectives, circulated requests for proposals, and awarded contracts to private and governmental resource experts. The principle investigations now underway include fisheries, wildlife, soils, vegetation, hydrology, geology and topography. The National Audubon Society is continuing its eagle studies in cooperation with the U.S. Fish and Wildlife Service.

The results of the first year - and in the case of eagles - of these investigations are summarized in this report. The full detailed reports prepared by each contractor may be obtained from the Department of Natural Resources, Division of Research and Development in Juneau, or the Haines Klukwan Resource Study office in Haines.

I would like to extend special credit to advisory committee members Jon Halliwill, Mayor of Haines, Bill Thomas of Klukwan, and Representative Jim Duncan of the Alaska State Legislature for their support of this study. Dave Cline, Alaska Representative of the National Audubon Society deserves commendation for his efforts in seeking cooperative solutions to resource conflicts. Finally, I would like to commend to citizens of Haines and Klukwan for their undying interest over the past three years.

Reed Stoops, Director
Division of Research and Development

Haines Klukwan Cooperative Resource Advisory Committee:

David Cline,
National Audubon Society

Representative Jim Duncan,
Alaska State Legislature

Jon Halliwill, Mayor
City of Haines

Jack Hodges,
U.S. Fish and Wildlife Service

Richard Logan,
Alaska Department of Fish & Game

Bill Thomas,
City of Klukwan



RESOURCE ROOM

RESOURCE ROOM

Principle Investigator:
Mary Ann Blanton for the
City of Haines,
Alaska Department of
Natural Resources

PURPOSE

The Resource Room had two primary goals for its first year of operation:

- to provide a local repository for collected data and materials to be available to concerned local citizens and groups who wish to remain informed about each of several resource studies
- to foster and encourage a congenial atmosphere in which groups, often with quite independent goals and objectives, might find neutral ground on which to synthesize the results of their work

The Haines Resource Room also played a vital role as an employment coordinating center for field crews hired for some of the resource studies and as a point of coordination for all contractors working on the various projects.

PRELIMINARY FINDINGS

The Resource Room functioned very successfully. It provided a contact for the community of Haines which will foster greater understanding and participation in the Haines Klukwan Cooperative Resource Studies. It houses a growing resource library, including results of this year's investigations, and it maintains a listing of Haines residents interested in employment in the study projects.

FUTURE STUDIES

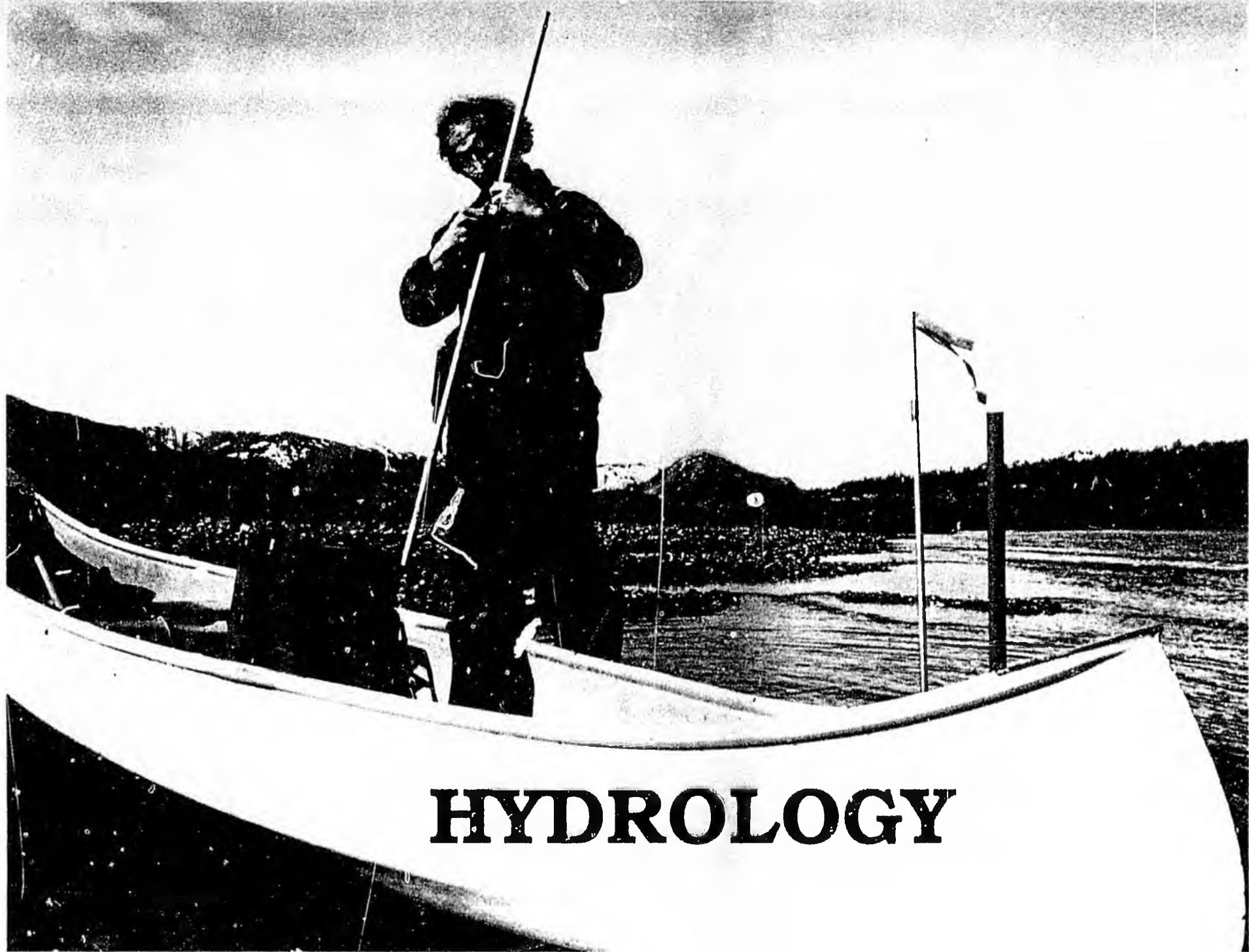
The Haines Klukwan Cooperative Resource Study Committee plans to continue funding the Resource Room so that its important function will be continued.



Dorothy Fossman points out one of the many studies cataloged in the Resource Room Library



Mary Ann Blanton and Dorothy Fossman research and catalog mapped resource information.



HYDROLOGY

HYDROLOGY

Principle Investigator
Daniel M. Bishop,
Environaid, for the
Alaska Department of Natural Resources

PURPOSE

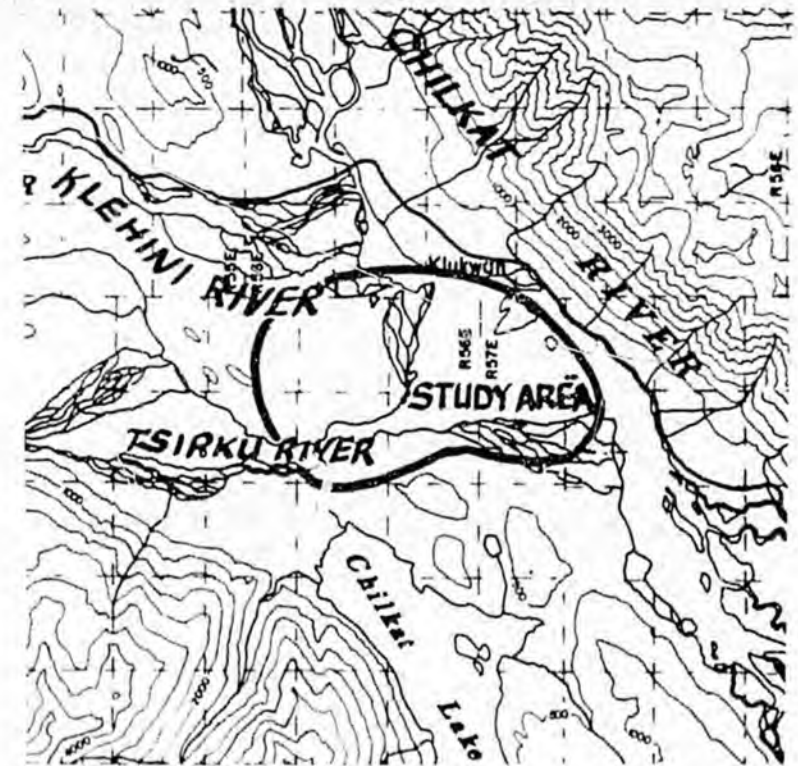
The Tsirku River fan at the confluence of the Tsirku and Chilkat River is known for its warm water upwellings that provide the environment for late season chum salmon spawning. The late spawning salmon are the main attraction for the eagles that gather in the Chilkat River Valley during the late fall and early winter. Before significant resource development occurs near the Tsirku fan the dynamics of the groundwater flow that cause the upwellings must be understood so that resource development activities can be managed in a manner that maintains the integrity of the upwelling areas. Given the limited budget for hydrologic investigations, the Tsirku River (see Map #2) was the highest priority for the investigation because of the important salmon spawning area and the likelihood of timber harvest on adjacent lands.

FIELD ACTIVITIES

A three member crew spent the winter and spring investigating the Tsirku fan groundwater regimen. Wells were sunk to test groundwater elevation, temperature and chemistry, and the permeability of gravels. Resistivity (using electrical currents and measuring changes in conductivity to locate the groundwater surface) and flow measurements were also taken.

PRELIMINARY FINDINGS

The Tsirku River fan acts as a reservoir. It is filled to overflowing during summer and early fall by glacial melt waters, then drains down during the late fall, winter, and early spring months. The gravels of the fan provide groundwater conduits carrying flows that upwell in the main and flood channels of the Chilkat River. Upwelling flows reach their maximum force and elevation during summer and fall when the driving reservoir is at its fullest and therefore exerting maximum pressure. Lowest flow of upwellings occur in the late winter-early spring before the Tsirku fan reservoir begins to refill. Annual fluctuation of the groundwater level of the upstream portion of the Tsirku fan may be as great as 20 to 30 feet while comparable fluctuation of groundwater levels near the upwelling may be 2 to 4 feet. The fluctuations in groundwater level are related by the changes in upwelling flows.



Map #2 - Hydrology Study Area



Bob Havrilak takes measurements from a test well on the Tsirku River fan. Klukwan can be seen in the background.

Water in the main channels of the Tsirku River can be perched well above the water table during the winter and early spring period. The beds of these main winter channels apparently become largely sealed by fine glacial sediments. When spring melt waters swell the Tsirku River beyond the limits of its winter channels, recharge of the fan reservoir increases rapidly, probably in proportion to surface area flooded. Groundwater levels and upwelling flows near or under the Chilkat channels also rise at that time

Water temperatures within the beds of upwelling stream channels are between the more constant temperature of the groundwater and the more variable temperature of the surface water. An intra-gravel mixing zone of surface and groundwaters is indicated by this temperature condition, and influences spawning and incubating conditions.

Dissolved oxygen within the groundwater zone remains relatively high in the Tsirku fan. This is an important factor that allows the upwelling flows to maintain an optimum incubating environment. The causes for these rather high groundwater oxygen levels are discussed in the detailed hydrology report which was submitted.

Upwelling flows pump sediment sands and silts in the immediate vicinity of concentrated upwellings. This pumping action is believed to contribute significantly to sediment accumulation in some flood channels and may act to keep spawning gravels clear of fine sediments that are less suitable for spawning. This study leads to several preliminary conclusions, which may relate to land or fisheries management in the Chilkat Valley.

1. The groundwater system, meaning groundwater recharge and flows of groundwater to points of upwelling along the intersection of the Tsirku fan and the Chilkat River, is contained largely on the Tsirku fan itself.
2. Dispersed flood flows on the Tsirku fan produce rapid recharge of the fan groundwater reservoir. Extensive confinement or restriction of the Tsirku River to specific channels on the fan would reduce recharge rate and affect upwelling flows.
3. Routing of major channels of the Tsirku River along the central core of the fan is more likely to support upwelling channels along the Chilkat River than major flow routes along the margins of the fan. Structures or activities which could induce or favor river movement toward fan margins should be avoided.



Bob Havrilak pumps a test well on the Tsirku River fan.



Bob Havrilak measures the water level in a test well on the Tsirku River fan.

4. Vegetated portions of the Tsirku fan floodplain limit the tendency of the river to cut new and divergent flow routes. Protection of at least healthy margins of vegetation with ample width will favor stable routings of river channels.
5. Upwelling spawning-incubating channels on the Chilkat River are most susceptible to sediment damage during November through April, when stream flows are generally clear.
6. Construction of natural upwelling spawning or incubating channels in the mouth of the Tsirku fan may be feasible. The biologic or fisheries management desirability of such an installation would require evaluation.
7. Outmigrant fry production from upwelling channels may be enhanced by the mixing of surface (river) flows with upwelling waters. A moderate volume of surface flows reduces sediment deposition and may enhance dissolved oxygen levels in the bed.

FUTURE STUDIES

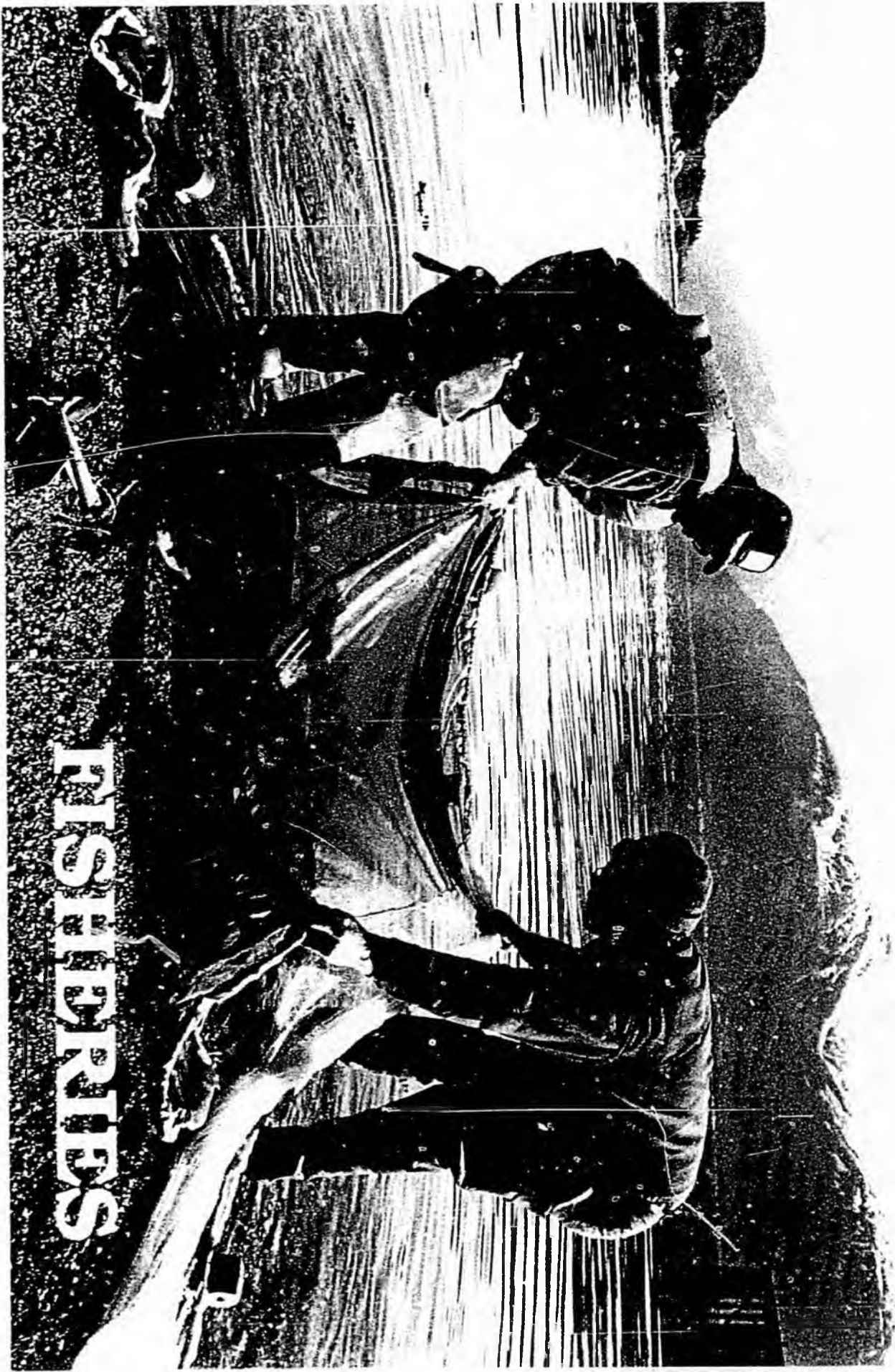
The United States Geological Survey has agreed to continue the hydrologic investigations. The Haines Klukwan Cooperative Resource Study Advisory Board is seeking funding to match federal funds so that the hydrology of the entire Chilkat Valley can be investigated and mapped.



Shelly Stallings sets up resistivity equipment to measure depth to ground water on the Tsirku fan.



Dan Bishop takes resistivity readings to measure depth to ground water on the Tsirku River fan.



FISHERIES

STREAM INVENTORY

Principle Investigator:
City of Haines and the
Alaska Department of
Fish and Game

PURPOSE

The Haines-Skagway Land Use Plan noted that there is little or no information on salmon use of a number of streams flowing through planned timber harvest areas. The purpose of this study was to collect information on:

- the use of these streams by salmon
- available spawning and rearing habitat
- stream flow
- streambank vegetation
- channel stability
- bottom substrate types
- water quality

As a result of this study, information on more streams is now available to resource managers who can use it to ensure compatibility between resource uses.

FIELD ACTIVITIES

Under the direction of the Alaskan Department of Fish and Game, two, three and four person field crews began gathering data on streams in November of 1980. The late start-up kept the field crews from gathering complete information on salmon spawning, since spawning begins in June and, in most areas, ends in November.

PRELIMINARY FINDINGS

Ten streams and their tributaries had complete detailed surveys done and salmon use noted. The streams surveyed included the Kelsall River (partially complete), Nataga Creek (partially complete), Herman Creek, Big Boulder and Little Boulder Creeks, all of which were identified in the Haines-Skagway Land Use Plan as needing inventory work. In addition, twenty-one coho salmon overwintering areas were identified and twenty-eight late fall salmon spawning surveys were done.



Steve Fossman measures the distance along a stream channel.



George Davis tests stream pH of the Kelsall River near Nataga Creek.

FUTURE STUDIES

The Haines Klukwan Cooperative Resource Study Advisory Committee is requesting funding to continue the stream survey work so that spawning information is complete on streams already inventoried and basic data is available for all anadromous streams in the Haines area. Eventually, it is hoped that detailed, comprehensive fisheries information will be available on salmon-producing systems that contribute to all Lynn Canal fisheries.



Greg Podzicky sets a trap for salmon fry on the Chilkoot River over Chilkoot Lake.

CHILKOOT AND CHILKAT ESTUARY STUDY

Principle Investigator:
Douglas Karnes for the
Alaska Department of Natural Resources

PURPOSE

In the life cycle of the salmon produced in the Chilkat and Chilkoot River systems, a critical segment is the movement of salmon smolt from freshwater to the marine environment. This study began to define the patterns of migration, locations of rearing areas, and the physical and biological characteristics of the estuarine environment that are necessary for salmon smolt survival. It will give land and fisheries managers an important tool to accomplish the task of maintaining the productive capacity of the natural systems of the Chilkat and Chilkoot valleys while providing for the use of the resources found there.

FIELD ACTIVITIES

Field investigations began in April 1981, and included salmon smolt sampling with fyke nets in the Chilkat and Chilkoot Rivers; estuarine sampling of salmon smolt with beach haul seines, trawls, dip nets and visual observation; water quality analysis and plankton sampling.

PRELIMINARY FINDINGS

The outmigration of pink and chum salmon coincided with a concentrated plankton bloom in the estuaries. Use of the upper inlet estuaries by schools of salmon smolt lasted only as long as adequate concentrations of food species of plankton were available. Water quality seemed to influence the abundance of plankton most directly. Higher temperatures and reduced salinities coincided with the reduced abundance of plankton and the migration of pink and chum salmon smolt out of the upper end of the estuaries and into Lynn Canal.

Chilkoot Inlet is used primarily by pink and sockeye salmon for rearing, with early schools consisting of 95 percent pink salmon and only 5 percent chum salmon. The first observed outmigration of sockeye salmon was on May 28, 1981.

Chilkat Inlet, unlike Chilkoot Inlet, is predominantly a chum salmon spawning and rearing area. It is believed that the chum salmon outmigration occurs over a long period; a belief supported by observations



Doug Karnes uses a net to trap salmon smolt as they migrate down the Chilkat River to salt water.



Doug Karnes and Hugh Reitz set a beach haul seine to sample salmon fry migrating along the shore of Lynn Canal near Haines.

of a wide range of smolt development in outmigrating chums and the extended duration of chum spawning in the fall.

FUTURE STUDIES

Two more field seasons of similar observations are needed to establish an adequate understanding of the importance of the physical and biological characteristics of Chilkat and Chilkoot Inlets to salmon smolt survival. It is suggested that studies begin earlier in the season and last longer so that cohos and sockeyes can be studied along with pinks and chums.



Doug Karnes evaluates plankton sample taken along Lynn Canal near Haines.



Doug Karnes tests a water sample to determine water quality during salmon smolt migration.

CHUM SALMON SPAWNING GRAVEL EVALUATION AND PRE-EMERGENT FRY SAMPLING IN THE TSIRKU RIVER FAN

Principle Investigators:
City of Haines and Alaska
Department of Fish & Game

PURPOSE

The Tsirku River fan is at the confluence of the Tsirku and Chilkat Rivers. It is the site of the late chum salmon spawning that attracts the large number of eagles to the area in the late fall and early winter.

This study assessed the effects of overwintering on pre-emergent chum salmon fry and examined the instability of spawning channels on the Tsirku River fan. This study will give valuable insights into the cause of salmon mortality during incubation and the relative productivity of the various channels and upwelling areas found on the Tsirku fan.

FIELD ACTIVITIES

Field work was done between April, 1981, and May 15, 1981. Spawning gravel samples were collected by using a gravel core freezing apparatus that allows investigators to freeze the gravel in place, extract it from the bottom, and analyze the gravel as it is found in the river bottom to determine its quality for spawning and the degree of siltation.

Pre-emergent fry samples were gathered by pumping a standard sample volume of gravel into fyke nets and counting the live salmon fry.

PRELIMINARY FINDINGS

Extremely high numbers of live pre-emergent chum salmon fry were found in some gravel samples. The maximum fry density found was 545 live fry per cubic yard. The areas with the highest densities of pre-emergent fry were 10 Mile Slough and that portion of the Chilkat River from Mile 20 to the City of Klukwan.

This year's gravel samples have not been analyzed, but when they are, they will be the base line for monitoring changes in the spawning gravel over time. There appears to be an opportunity to do natural enhancement increase salmon spawning in the area.



Fisheries researchers use a gravel core freezing apparatus in the Chilkat River near the Wells Bridge.



Fisheries researcher brings frozen gravel sample to shore where it will be frozen, put in a container and taken to a lab for analysis.

FUTURE STUDIES

Data on pre-emergent fry has to be gathered over a number of years to get an accurate understanding of the resource. With this in mind the Haines-Klukwan Cooperative Resource Study Advisory Committee is requesting funding for further research in 1981-82.



Tim Ackerman and George Davis pump spawning gravel into a net to capture live pre-emergent salmon fry.



Researchers transfer spawning gravel sample from the net to a pan where live salmon fry will be counted.

FISHERIES STUDY COORDINATION

Principle Investigator:
City of Haines for the
Alaska Department of
Natural Resources

PURPOSE

A three member study team was formed to work in three major areas:

- to monitor all local fisheries habitat research and maintain progress reports in the Haines Resource Room
- to perform a literature search to identify all pertinent existing sources of information on fisheries habitat and the relationship of the use of other resources to the maintenance of high quality fisheries habitat
- to heighten local student awareness of resource values found in the Chilkat Valley.

FIELD ACTIVITIES

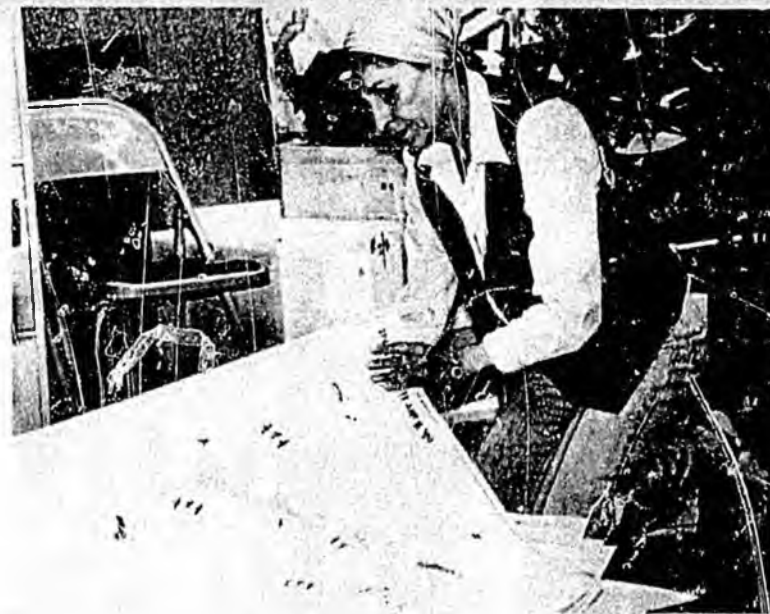
The field activities of the three member study team have ranged from developing a resource library to meeting with hydrologists to discuss fisheries - hydrologic relationships.

PRELIMINARY FINDINGS

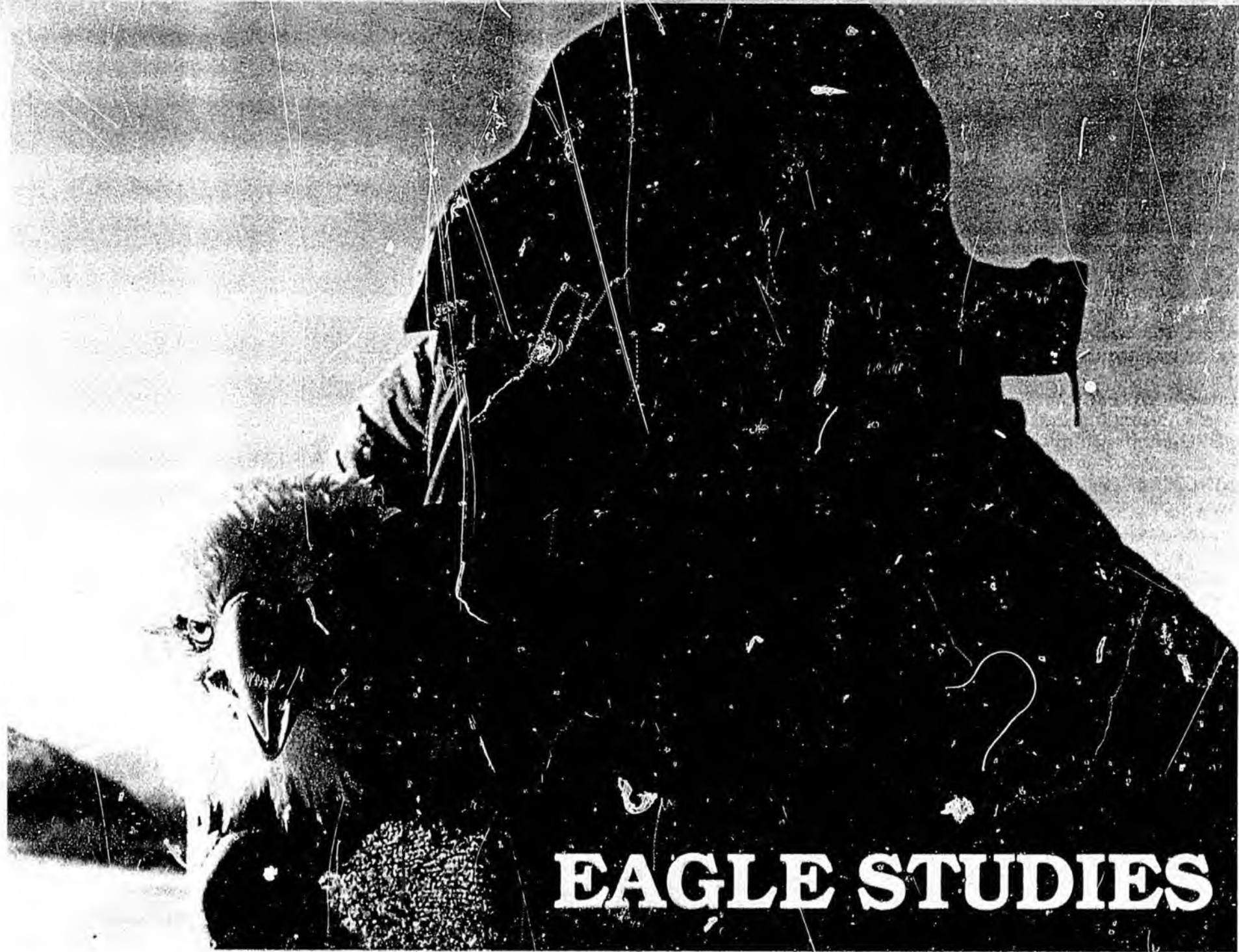
The study team found that a great deal of literature exists on fish, timber, habitat and other resources which can be applied to resource issues in the Haines area. A cataloged resource library has been developed and is available for use by all interested parties. Work with students was very successful, and a number of the students have followed up initial contacts with requests for more information from the study team. As a result, several classes are being planned for the summer session. The study team also met with other resource users to discuss the relation of their activities to the fisheries resources.

FUTURE STUDIES

The Haines Klukwan Cooperative Resource Study Advisory Committee is planning to continue this project at the same level of funding and for the same purpose next year.



Dorothy Fosseman, one member of the Fisheries Coordination Team, prepares maps in the Resource Room.



EAGLE STUDIES

CHILKAT VALLEY COOPERATIVE BALD EAGLE STUDY

Principle Investigator:
National Audubon Society

PURPOSE

The primary purpose of the National Audubon Society's four-year multi-disciplinary cooperative study is to gather scientific information on bald eagle ecology adequate to determine how to permanently protect the essential bald eagle habitat in the Chilkat and Chilkoot River Valleys. Of special concern to the National Audubon Society is the possibility that extensive clearcut logging or future mining activities might seriously affect the delicate balance between soils, forest cover, hydrology, salmon spawning and rearing, and eagle use.

Intensified research, balancing of multiple resource values in agency decision-making, and ongoing public participation are essential for fair and equitable solutions to be found to potential resource conflicts

FIELD ACTIVITIES

Now in its second year, considerable progress is being made in the cooperative study effort. U.S. Fish and Wildlife Service and Audubon biologists are continuing their study of eagle ecology, with the Service primarily responsible for radio telemetry aspects of the study, and conducting aerial surveys and censuses.

A total of 16 weekly ground censuses were conducted by Audubon biologists at 17 predetermined census points between October 10 and January 23.

PRELIMINARY FINDINGS

During the winter of 1980-1981 a peak population of 3,250 eagles was reached on November 28, 1980.

A five mile stretch of the Klehini River above its confluence with the Chilkat supported the largest number of eagles during October, when the eagles first began their concentration. Following freezeup, most of the birds were found along the Chilkat River between mileposts 19 and 22 on the Haines Highway. Eagle distribution throughout the season was directly related to the availability of salmon, with dead or dying chums the preferred food source.



Bald eagle perched in a cottonwood during the winter concentration of eagles along the Chilkat River.

Although findings are considered preliminary, the fact that eagles use substantial amounts of habitat beyond the boundaries of the existing Critical Habitat Area has been reaffirmed and more precisely defined. A map of essential bald eagle habitats shows approximately 26,074 acres in the Chilkat Valley and 2,580 in the nearby Chilkoot Valley. Another 22,285 acres above the Wells Bridge along the Chilkat River are essential breeding habitat. Thus, a total of about 50,939 acres in the two systems are at this time deemed by Audubon as deserving of permanent protection for eagles. Only about 5,486 acres of the total appear to involve spruce-hemlock stands with potential commercial value. These acreages are believed by Audubon to constitute critical winter eagle roosting habitat and may well prove crucial to the area's hydrologic system.

FUTURE STUDIES

The Audubon Society plans two more field seasons studying eagle ecology. In addition, the Audubon Society recommends a Scientific Advisory Committee to the cooperative study. The Scientific Advisory Committee to the study should evaluate scientific findings from the studies and develop an ecosystem model for the Chilkat Valley. The Audubon Society is also proposing that the State provide funds to thoroughly evaluate the possibility of establishing a resource education and interpretive center in Haines and an eagle observatory on the Chilkat River. When the center becomes operational, Audubon would like to co-sponsor an International Bald Eagle Symposium there.

Immediate management actions recommended for the state's Chilkat River Critical Habitat Area include marking its boundaries adjacent to the Haines Highway, paving of three highway turnouts, installing rustic interpretive signs at the turnouts and adopting formalized management regulations.

The National Audubon Society remains committed to helping obtain sound scientific information vital to protection and management of the Chilkat bald eagles, educating the public as to their many values and to finding the best means of placing essential eagle habitats under permanent protection. The cooperative efforts now under way are intended to assure that these goals are achieved with the participation of all concerned parties, in a way that will bring the State of Alaska and the community of Haines widespread recognition for its role in perpetuating one of our nation's great wildlife spectacles.



Audubon biologists Erv Boeker and Andy Hansen set padded traps around a salmon carcass to trap an eagle they will harness with a radio transmitter used to track eagle movements.



Padded traps set and waiting for the arrival of an eagle.

EAGLE SURVEY AND RADIO TELEMETRY

Principle Investigator:
U.S. Fish and Wildlife
Service

PURPOSE

The U.S. Fish and Wildlife Service has a long-standing interest in the unique concentration of bald eagles on the Chilkat River. Over the past two years the service has intensified its normal eagle survey work to accomplish the following objectives:

- o to determine the habitat requirements of the bald eagles in the Chilkat Valley
- o to document the numbers and distribution of eagles in the Chilkat and Chilkoot valleys during the concentration period
- o to determine the nesting populations that are using the Chilkat River and the migration patterns of bald eagles to and from the valley

Because the Service is also interested in the welfare of the eagles after they leave the Chilkat Valley, its survey and telemetry work will include all of Southeastern Alaska, though the Chilkat Valley is an area of primary interest.

FIELD ACTIVITIES

Aerial counts were made of eagles during the concentration period; aerial nesting surveys were performed and fourteen eagles were trapped and fitted with radios so they could be tracked.

PRELIMINARY FINDINGS

Aerial nesting surveys were done in 1979 and 1980. There are approximately 90 nests in the Chilkat and Chilkoot Valleys. The percent of nests in use in late spring was 48% in 1966, 35% in 1979 and 30% in 1980. In 1980 only four of the 27 nests fledged any young and each had only one young bird.

Radio telemetry work helped establish movement patterns of eagles within the Chilkat Valley during the concentration period. After the eagles left the valley in January, the Service was able to track their



Erv Boeker and Andy Hansen examine trapped eagle prior to attaching a radio transmitter.



Erv Boeker and Andy Hansen harness a radio transmitter to the back of an eagle.

movements - in some cases - even to Washington State.

The widespread movements of those eagles which were tracked throughout Southeast Alaska would lead one to infer that some of the eagles use coastal British Columbia.

FUTURE STUDIES

The U.S. Fish and Wildlife Service plans to continue its eagle survey work during the 1981-82 field season.

The aerial population surveys will be continued and expanded if weather permits. Much more intensive radio tracking will be conducted both within the valley and throughout the expected range of movements of the eagles. Alternate food sources that the eagles are using during the winter months after departing the Chilkoot Valley will be documented.



Captured bald eagle ready for release.



SOIL AND VEGETATION INVENTORY

Principle Investigator:
U.S. Soil Conservation
Service cooperating with
the Alaska Department of
Natural Resources

PURPOSE

Soils are a basic element contributing to the ability of the land to produce various types of vegetation and - assuming a desire to maintain their productivity - they are the limiting factor for many activities. Therefore, information on soils is essential if resource management is to get optimum return from the use of all resources while protecting and maintaining renewable resources.

The Department of Natural Resources and the Soil Conservation Service plan a three year inventory program to gather essential soils data for state lands in the Haines area, so that the Department's long term management will in fact realize optimum return from the use of all resources while protecting, maintaining and enhancing renewable resources.

FIELD ACTIVITIES

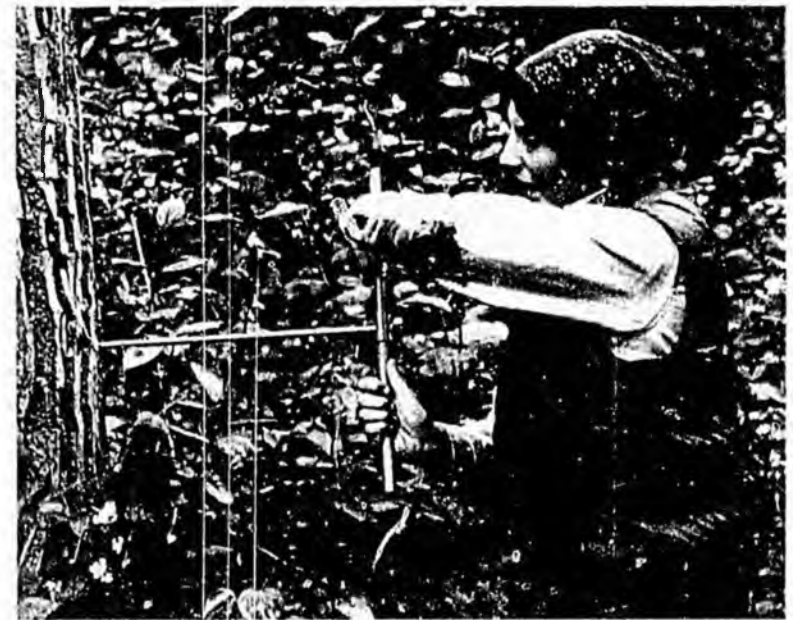
The Soil Conservation Service has just begun to gather basic soils and forest inventory data which will be interpreted to the Department's specifications.

Maps will be at a 1:24,000 scale and interpretations will include the following:

- soils
- slope breaks at 5%, 20%, 40% and 70%
- potential gross annual growth by species (ft.³ and bd. ft. Scribner)
- depth of bogs (under and over 3 feet)
- suitability as rock source for roads
- stabilization recommendations for exposed soils (road building and logging)



Soil scientist analyzes aerial photography to aid in collecting and interpreting field data.



Member of the vegetation inventory team takes a core sample of a cottonwood tree near the Klehini River above Klukwan.

- preferred harvest methods (skidder, lowground pressure skidder, skyline, highlead)
- operating constraints (wet soil, dry soil, frozen ground)
- seedling survival projections
- slope stability (mass wasting such as slumps or slides)
- road construction constraints (extra fill, extra drainage, sidecasting vs. end haul' ag, full vs. partial benching)
- wind throw hazard

The topographic mapping project should prove very useful to this project as it will allow for accurate slope projections.

FRELIMINARY FINDINGS

Because the project started in May of 1981, it is too early to expect findings.

FUTURE STUDIES

Eight field personnel will work in Haines for part of the next three seasons.

Over the three year period, approximately 200,000 acres in the Haines area will be inventoried and interpreted. Preliminary data will be available on December 31 of each year and investigations are targeted to areas where timber harvest is to occur soon, so the Department's foresters will have soil's information available to them when they administer the Haines timber sale.



Member of the vegetation inventory team measures the height of trees.

TOPOGRAPHIC MAPPING



TOPOGRAPHIC MAPPING

Principle Investigator:
Air Photo Tech for the
Alaska Department of
Natural Resources

PURPOSE

Forest managers for the Department of Natural Resources are hampered by the lack of good topographic maps when planning timber harvest layouts, road alignments, inventories and other day-to-day management activities. This project will produce topographic maps with a twenty foot contour interval at a 1"=400' scale. It is intended that the maps will be used by forest managers, other land managers, researchers and the public. The Soil Conservation Service has already indicated the value of having these maps for slope interpretations as part of its soils and vegetation study of the Chilkat Valley.

FIELD ACTIVITIES

Field activities during the spring of 1981 were divided between establishing surveyed control points and then taking aerial photographs of most of the Chilkat and Kelsall River valleys north of the Kicking Horse River in preparation for map making during the summer of 1981.

PRELIMINARY FINDINGS

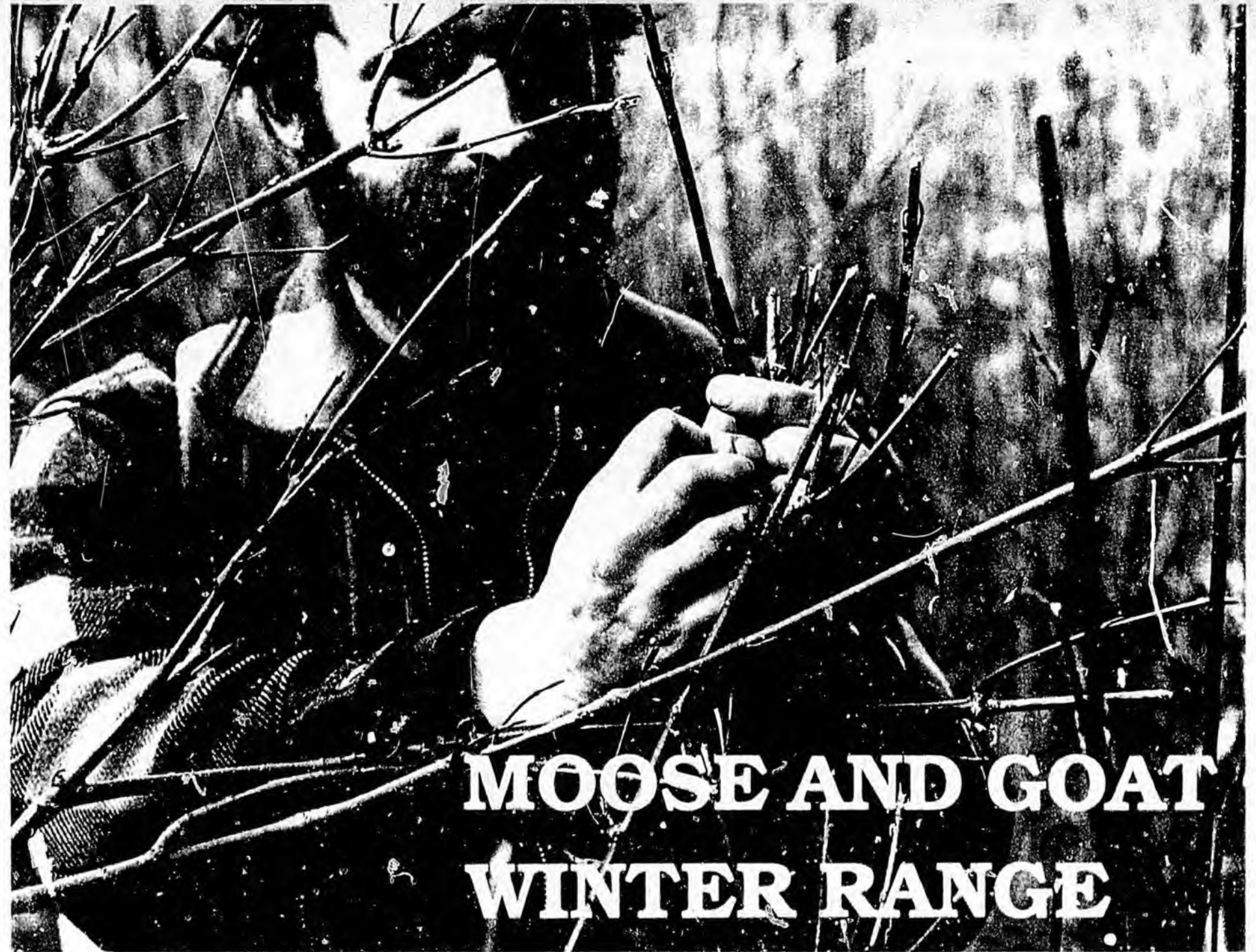
By June 30, 1981, controlled aerial photography and a cadastral control plat used for map production will be finished.

FUTURE STUDIES

The Haines-Klukwan Cooperative Resource Study Advisory Committee has requested funding for Fiscal Year 1982 to have contour maps prepared from the controlled photography obtained during the Fiscal Year 1981 phase of the project.



Survey crews locate areas where survey monuments need to be placed so aerial photographs will have ground contact.



**MOOSE AND GOAT
WINTER RANGE**

MOOSE AND GOAT WINTER RANGE

Principle Investigator:
Alaska Department of
Fish and Game

PURPOSE

Winter is a critical time for wildlife. Without cover that sustains them through the rigors of the winter season, the chance of survival for wildlife in the Chilkat Valley is reduced.

The Department of Fish and Game is concerned that not enough is known about winter habitat for moose and goats in areas to be harvested under the terms of the recent state timber sale in Haines. The purpose of this study is to determine the location and importance of winter habitat for moose and goats. This year's study concentrated on identifying specific winter habitat for goats either in or adjacent to cutting units laid out by the Department of Natural Resources' Five Year Cutting Plan and in defining the distribution and abundance of moose within the general study area.

FIELD ACTIVITIES

Field work was done in several different phases. A ground survey was done in January and early February on a portion of winter habitat for moose located near the Tsirku River fan. Aerial surveys of winter habitat for moose were flown in January, February and April.

Ground surveys of proposed timber harvest units in the Klehini, Little Salmon, Kelsall and upper Chilkat Valleys were undertaken in April and May. Some of the proposed timber cut units for the next five years were surveyed for wildlife use and potential as winter habitat for moose and goats. Any potential conflicts between wildlife use and timber harvesting were analyzed. Surveys were made of goat populations and winter habitat in the Kelsall, Little Salmon and portions of the Chilkat River Valleys through combined use of ground work and helicopter sightings.

PRELIMINARY FINDINGS

Observations of goats and their use of certain habitats during winter in the Kelsall Valley indicate potential conflicts with road building and timber harvesting in that area. Specific boundaries of these wintering areas have not been defined nor have specific habitat requirements been identified.



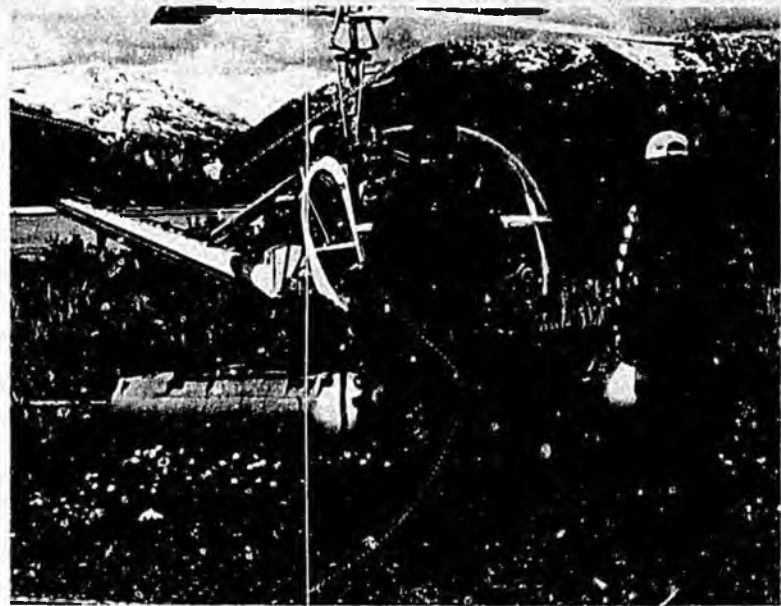
Wayne Eberhardt and another game biologist locate planned timber cutting units on the ground so they can survey moose and goat wintering habitat in those units.

Moose observed during the aerial surveys were located primarily in the river bottom swamp and cottonwood habitats, but also in the upland spruce-hemlock habitat. Six separate areas were identified as important winter habitat for moose and a correlation was made between numbers of moose observed and vegetation types.

FUTURE STUDIES

The Haines Klukwan Cooperative Resource Study Advisory Committee has requested funding to continue investigations of moose and goat habitat use during winter in the Chilkat Valley.

Moose migration between summer and winter habitats will be monitored to better understand the effects of snow depth on wintering moose and to determine habitat use. Further study is essential to analyze specific effects of timber harvesting and road development on important winter habitat for both moose and goats.



Game biologists head for helicopter used in moose and goat aerial surveys.



Game biologists survey moose browse.

HAINES KLUKWAN COOPERATIVE RESOURCE STUDY

FY81 BUDGET (JULY 1, 1980 - June 30, 1981)

Department of Natural Resources

	<u>\$ Budgeted</u>	<u>Contractor</u>
1. Topo Mapping	\$ 56,950	Air Photo Tech (Private)
2. Hydrology	60,000	Environaid (Private)
Hydrology (USGS Match)	15,000	USGS (Federal)
3. Resource Room/ Fisheries Studies	42,500	of Haines (Local State)
4. Soils	50,000	Soil Conservation Service (Federal)
5. Estuary Study	15,200	Karnes (Private)
6. Study Report	5,500	Northern Printing (Private)
7. Travel	3,000	
8. Photography	1,850	Figdor (Private)
Subtotal	<u>\$250,000</u>	

Department of Fish and Game

9. Moose and Goat Habitat	\$ 23,000	Fish and Game (State)
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National Audubon Society

10. Eagle Studies	\$ 50,000	Audubon (Private)
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U.S. Fish and Wildlife Service

11. Eagle Surveys and Radio Telemetry	\$ 35,000	USFWS (Federal)
Total	\$358,000	

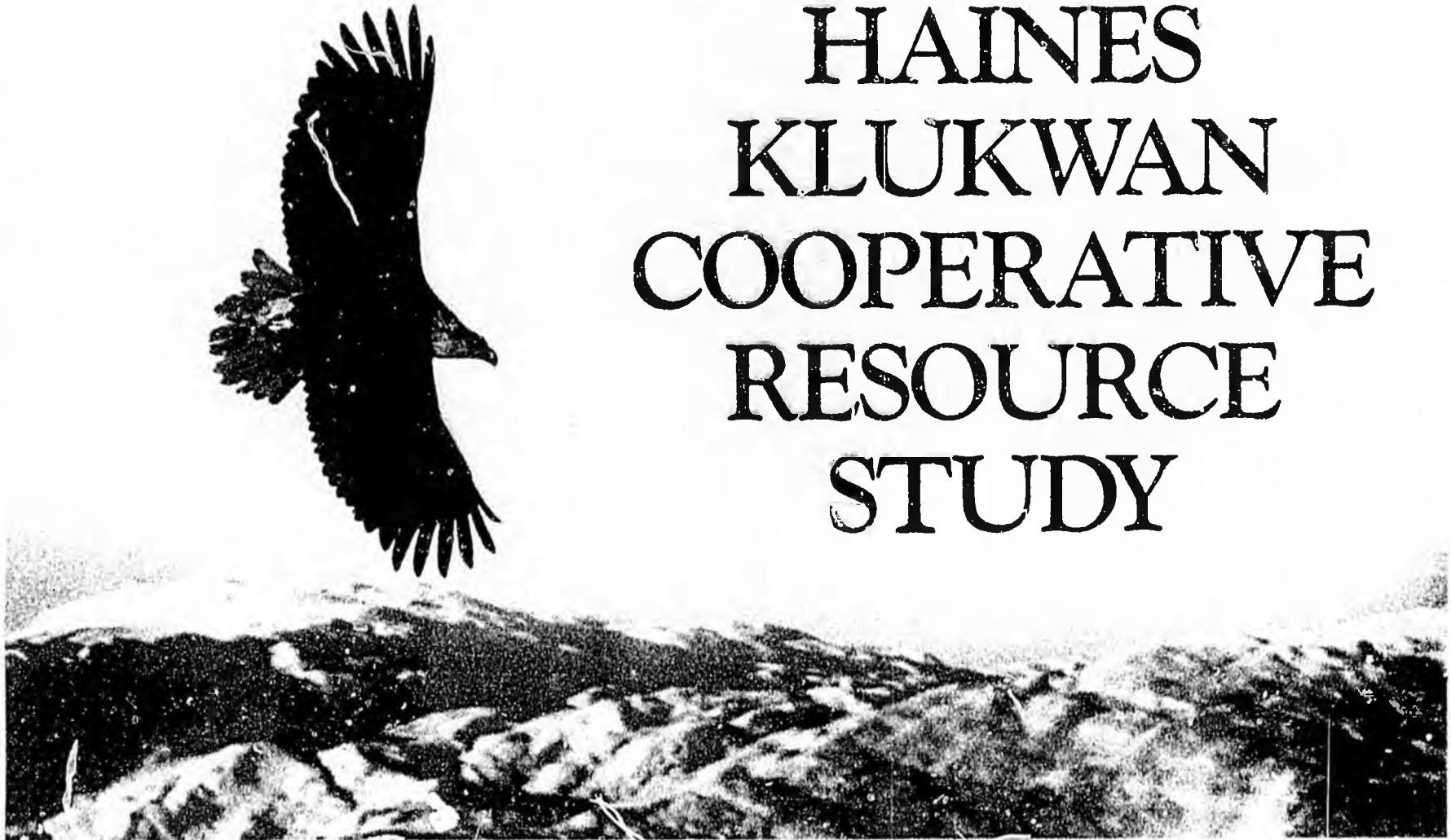
HAINES KLUKWAN COOPERATIVE RESOURCE STUDY

FY82 STATE BUDGET (JULY 1, 1981 - June 30, 1982)

	<u>FY82</u>
1. Haines Cooperative Resource Study Room	\$ 15,000
2. Fisheries	50,300
a. Salmon Habitat Inventory	\$20,500
b. Chum Salmon Spawning Inventory	11,200
c. Fisheries Study Coordinator	3,400
d. Out-migration Inventory for Chilkat and Chilkoot Inlets	15,200
3. Moose and Goat Habitat	63,400
4. Topographic Mapping	43,300
5. Eagle Tracking	30,000
6. Study Report and Photo Support	6,000
7. Travel	4,000
Subtotal A	<u>\$212,000</u>
8. Hydrology*	\$ 70,000
9. Soils*	50,000
10. Timber*	250,000
11. Minerals*	250,000
Subtotal B	<u>\$620,000</u>
Total of A & B	\$832,000

*Included in the Department of Natural Resources
Inventory Capital Budget Request.

HAINES KLUKWAN COOPERATIVE RESOURCE STUDY



June 1982 Progress Report

Haines Klukwan Cooperative Resource Study June, 1982 Progress Report

This report was prepared by Department of Natural Resources under the direction of the Haines Klukwan Cooperative Resource Study Advisory Committee.

Committee Members:

City of Haines, Jon Halliwill, Mayor
City of Klukwan, Jim Stevens
Alaska Department of Fish and Game, Dick Logan
National Audubon Society, Dave Cline
U.S. Fish and Wildlife Service, Jack Hodges
Alaska Department of Natural Resources, Reed Stoops
Alaska State Legislature, The Honorable Jim Duncan

This project was funded by:
Alaska Department of Natural Resources
Alaska Department of Fish and Game
National Audubon Society
U.S. Fish and Wildlife Service
U.S. Geological Survey
U.S. Soil Conservation Service

Photographs by George Figdor

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Introduction to the Haines Klukwan Cooperative

Resource Study 1982 Progress Report

The wisdom of the cooperative approach to land use planning outlined in last year's progress report was confirmed by the events of the recent year. On June 15, 1982, Governor Hammond signed into law Senate Bill 796 which established the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Management Area.

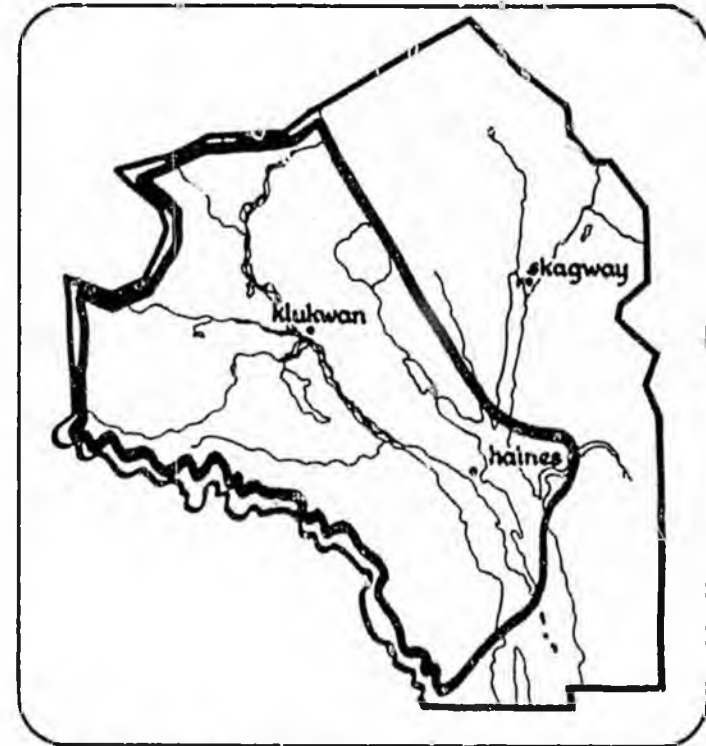
This legislation was based in large part on information derived from the Haines Klukwan Cooperative Resource Study. Due to the importance public involvement was given by the Advisory Committee, many people were well informed and active in both the drafting of the legislation and in its passage. An unusually high degree of consensus was achieved which can also be attributed to heavy local public interest. SB 796 is reported in the appendix of this progress report.

While passage of legislation marks an important step in the future land management of the Haines Klukwan area, it is equally important that federal state and local governments continue their cooperative resource information projects. The third year of this effort was funded by the legislature for \$212,000. This will likely be the last special appropriation for the study. Afterwards, funding will be requested by individual agencies as necessary, but hopefully coordinated by mutual cooperation.

The advisory committee wishes to commend Senator Bill Ray for his sponsorship of SB 796, Senator Bettye Fahrenkamp for her active and supportive role as Resources Committee Chairperson, and Representative Jim Duncan who assisted in House deliberations on the bill. Also, Merrill Palmer did an excellent job of representing the City of Haines during legislative action and Ray Menaker spent considerable time in representing conservation interests in the bill.

And finally, Governor Hammond must be thanked for his leadership in cooperative management and special interest in this issue.

Reed Stoops, Director
Division of Research and Development



Map #1 - Study Area

Haines Klukwan Cooperative Resource Advisory Committee:

David Cline,
National Audubon Society

Jon Halliwill, Mayor
City of Haines

Richard Logan,
Alaska Department of
Fish & Game

Representative Jim Duncan,
Alaska State Legislature

Jack Helges,
U.S. Fish and Wildlife
Service

Jim Stevens,
City of Klukwan



RESOURCE ROOM

RESOURCE ROOM

Principal Investigator:
Mary Ann Blanton for the City of Haines,
and the Alaska Department of Natural Resources

As in 1981, the Haines Resource Study Room served during 1982 as a point of coordination for the various resource studies. This coordination involved disseminating information on employment opportunities to local residents and maintaining a list of persons available for employment by contractors. In addition, all funding proposals and contracts were kept on file. The Resource Room continued to grow as a local repository of reports and other available resource information. Contractors were asked to coordinate their schedules with resource room staff so the different projects could mutually benefit one another and the public could stay informed about various projects. The Resource Room also played an active role in Senate Bill 796 during its various stages of development and provided a contact center for the communities of Haines and Klukwan on the bill's status. The Haines Klukwan Cooperative Resource Study Advisory Committee plans to maintain the Resource Room throughout the study's duration.



Resource Room Coordinator provides information to a caller regarding the Haines Klukwan Cooperative Resource Study.



HYDROLOGY

HYDROLOGY

Principle Investigator:

Edward F. Bugliosi, Project Chief for the U.S. Geological Survey in cooperation with the Alaska Department of Natural Resources

PURPOSE

The purpose of the hydrological investigations has been twofold. One, to describe and document the general hydrology of the Chilkat River Basin, including the Tsirku, Takin, Chilkat, Klehini and Kelsall River mainstems, and Chilkat Lake. Second, to describe and document the hydrologic system of the Tsirku River Fan area, including both ground-water and surface-water relationships. In both cases data on quantity and quality of water is being gathered to establish conditions in the basin at the present level of man-induced and natural development. It is important that resource managers understand the hydrologic system in order to maintain its quality in the wake of potential resource development.

FIELD ACTIVITIES

The past year's activities were directed toward both surface and ground-water data collection. Both high flow and low flow water quantity and quality data were gathered in major streams within the Chilkat River Basin, including some smaller tributaries. A detailed physical and chemical study of Chilkat Lake and its outlet channel was completed.

A low flow seepage run on the Tsirku River Fan and the surrounding area was completed in April 1982, indicating ground-water discharge and recharge areas. Several attempts were made to emplace observation wells deeper than 15 feet in the fan without success, however efforts will continue in this area to obtain data on the ground-water system within the fan.

PRELIMINARY FINDINGS

The surface water of the main stems of measured rivers in the Chilkat River Basin can be generally characterized as calcium-bicarbonate waters. Waters of the rivers and streams west of and including Chilkat River exhibit similar water quality characteristics except for high conductivities and slightly higher pH values due to the different mineralogy of the bedrock on the east versus west side of the Chilkat River Valley.



Instrument used to measure depth of ground water on the Tsirku River fan.



Unfrozen channel of Chilkat River due to upwelling of warm water from the nearby Tsirku River fan.

The general configuration of Chilkat Lake is a U-shaped, glacially-scoured river valley, over 200 feet at its deepest point. Temperature, pH, dissolved oxygen and conductivity measurements at five foot depth intervals indicate that the lake becomes stratified during the late summer months.

The low-flow, seepage run on the Tsirku Fan and adjacent areas during April, 1982 indicates that recharge to the groundwater system is evident both upstream from, and on, the fan. This means that during low flow periods (late fall to early spring) the ground-water system in the fan is recharged by surface-water from streams on the fan. The source of most of the surface-water during this period is from an area of ground-water discharge that is drained by the Little Salmon River, located between the Tsirku and Klehini River Valleys.

The seepage run data indicates that surface-water discharges into the ground-water system along the entire length of the Tsirku River Fan from the head of the fan, to its toe. Ground-water discharge from the fan into the Chilkat River, south of Klukwan.

FUTURE STUDIES

1. Attempting to establish about ten observation wells, 50 feet deep at various locations on and near the fan.
2. Water quality testing of ground-water level in the fan.
3. Periodic monitoring of the ground-water level and water quality.
4. Seismic survey to determine the depth and extent of alluvial sediments in the fan and the structural configuration of the underlying bedrock.
5. Drilling a deep observation well to near bedrock in conjunction with the State Department of Geological and Geophysical Survey. Along with the above studies, continuous monitoring of streamflow on the Klehini and Tsirku Rivers will be maintained.



Measurements of dissolved oxygen and temperature in a test well are taken on the Tsirku River fan.

Other efforts are needed that are beyond the scope and resources of the present study to maintain an adequate monitoring system within the study area, and to investigate site specific areas not covered in the present study. These are:

1. A detailed study of the hydrologic relationship between Chilkat Lake and the Tsirku River, that periodically flows into the lake.
2. A detailed limnological study of the lake and its relations to the influx of sediment and the natural ground-water system. This is necessary to determine effects of sediment influx on the nutrient levels in the lake and the lake's productivity in relation to the salmon population.
3. Continued periodic monitoring of ground-water observation wells and maintenance of streamflow records on the Klehini River to establish long-term seasonal fluctuations and relationships between the ground-water and surface-water systems.



Researcher readies equipment to take measurements from test wells in the study area.



FISHERIES

STREAM INVENTORY

Principal Investigators:
City of Haines and the
Alaska Department of Fish and Game

PURPOSE

The second field season was concluded during which information continued to be gathered on salmon use of important streams flowing through the newly created Alaska Chilkat Bald Eagle Preserve. Priority was given those systems on which timber harvest and mining activities are planned. Objectives on which the study focused this season were:

- completion of detailed stream inventories
- water quality measurements
- identification of salmon fry overwintering areas
- enumeration of adult salmon on the spawning grounds

FIELD ACTIVITIES

Field crews under the direction of the Alaska Department of Fish and Game began work in October of 1981. Adult salmon enumeration was conducted through the first week of December when extreme cold and snow hampered field work. Record numbers of overwintering areas began in November and was continued in the Spring during April and May. Fry traps baited with salmon eggs were used successfully (and in some cases through several inches of ice) to determine what areas supported salmon fry through the winter months.

PRELIMINARY FINDINGS

A total of 13 streams and tributaries have been nominated for designation by the commissioner of Fish and Game as anadromous salmon streams. Prior to this study little or no information was available on these important systems. Inventory data on all streams completed during the study to date will be published in a revised stream catalog for the Haines area. In addition, many new Coho salmon overwintering areas were identified and delineated on large-scale topographic maps and aerial photographs.



Salmon fry are trapped in Chilkat River to inventory and identify rearing areas.



George Davis measures the temperature of the water in Sawmill Creek.

FUTURE STUDIES

Limited funding levels made it necessary to prioritize important streams chosen for study. Major systems within the Alaska Chilkat Bald Eagle Preserve and the Chilkat Valley were given high priority. The Haines-Skagway Land Use Plan identified other systems needing study but which could not be included in the contract work this year. Chilkoot River, Ferebee River, Clear Creek (on Murphy Flats) and the Tahkin River are among those important streams in need of inventory studies. Eventually, it is hoped that detailed comprehensive fisheries information will be available on salmon-producing systems that contribute to all Lynn Canal fisheries.

CHUM SALMON SPAWNING GRAVEL EVALUATION AND PRE-EMERGENT FRY SAMPLING IN THE TSIRKU RIVER FAN

Principal Investigators:
City of Haines and the
Alaska Department of Fish and Game

PURPOSE

The Tsirku River fan is at the confluence of the Tsirku and Chilkat Rivers. It is the site of major upwellings which support the late Chum salmon spawning that attracts the large number of eagles to the area in late fall and early winter.

This study continues to monitor the effects of overwintering on pre-emergent Chum salmon fry and examines the instability of spawning channels along the Tsirku River fan. This study will give valuable insight into the cause of salmon egg mortality during incubation and the relative productivity of the various channels, and upwelling areas found along the Tsirku fan.

FIELD ACTIVITIES

A late Spring breakup delayed initial sampling until mid-April and work was terminated by the end of May when river levels began to rise significantly. A grid system was developed to delineate the study areas along the Tsirku River fan-Chilkat River confluence. Thirty-two transected sections were surveyed and mapped. Both gravel samples and pre-emergent fry samples were taken randomly within each corresponding section. Gravel samples were collected by



Researchers measure size of salmon fry.



Researchers prepare gravel core freezing apparatus to extract gravel sample in the Chilkat River.

using a gravel freeze-core apparatus that allows investigators to freeze the gravel in place, extract it from the bottom and analyze the gravel as it is found in the river bottom to determine its quality for spawning and the degree of siltation.

Pre-emergent fry samples were gathered by hydraulically pumping a standard sample volume of gravel into fyke nets and counting the live salmon fry.

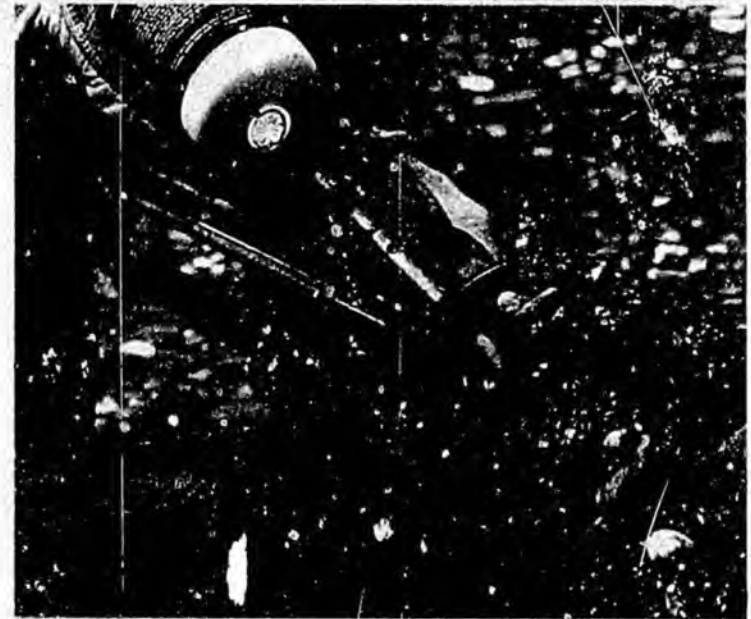
PRELIMINARY FINDINGS

Initial comparisons were made with 1981 data. Generally, highest fry densities occurred in the same areas. Grids II and III were high in both years. The maximum fry density found was 631 live fry per square meter. As in the previous season, that portion of the Chilkat River from 20 mile to the village of Klukwan proved the most productive of all study areas. Several years of data are necessary for comparisons which provide statistically valid conclusions.

Gravel samples taken last season were analyzed using laboratory methods. An index to the quality of gravel was obtained which is a standard for evaluating the reproductive potential of spawning gravel. The index allows gravel composition to be monitored. There appears to be an excellent opportunity to do natural enhancement to increase salmon spawning in the area.

FUTURE STUDIES

The Haines Klukwan Cooperative Resource Study Advisory Committee has received legislative funding for continued research in 1982-83. Hopefully, additional funding can be procured by the Department of Fish and Game to continue the study over a number of years to get an accurate understanding of salmon production in the Tsirku River Delta area.



Gravel core sample is thawed out for laboratory analysis of spawning quality.



Greg Podziki records salmon fry count from gravel sample.

CHILKOOT AND CHILKAT ESTUARY STUDY

Principal Investigator:

Douglas Karnes, for the Alaska Department of Natural Resources

PURPOSE

Early marine survival studies of Chum salmon were conducted for the second year in the Haines area of upper Lynn Canal in northern Southeastern Alaska. The primary purpose of these studies is to provide baseline data on the salt water environment during salmon smolt outmigration in Chilkat and Chilkoot Inlets. The data collected should allow determination of optimal early marine survival conditions. The early estuary water temperature, salinity, food abundance, and general water quality each affect juvenile salmon growth. The average growth rate can then be related to survival conditions and should be a fairly reliable index to early marine conditions. This information will be useful to assist resource managers in maintaining the integrity of the natural systems while providing sustained yield of the resources.

FIELD ACTIVITIES

Field investigations began in April 1982 and included salmon smolt sampling with fyke nets in the Chilkat and Chilkoot Rivers; estuarine sampling of salmon smolt with beach haul seines, trawls, dip nets and visual observation; water quality analysis; and plankton sampling.

PRELIMINARY FINDINGS

Sea water temperature and zooplankton density are the two environmental parameters most often selected for any monitoring program because they both have an important effect on fry growth and survival. Unfortunately the conditions this winter and spring of 1982 were less than optimal for the favorable support of Chum salmon smolt outmigrants. Chum salmon smolt outmigration occurred even before the ice left the Chilkat River. The initial river water temperature was 0°C, and the estuary measured 3°C. These estuary temperatures were 2-3°C colder throughout the migration as compared to last years' data.



Doug Karnes and Hugh Reitz set beach seine to sample salmon smolts migrating along the shores of Lynn Canal.

Plankton abundance levels were also initially low and remained low throughout the duration of the study. The peak Chum outmigration occurred on 4-16-82 when 840 smolt were sampled. The average smolt length during the entire sampling period was 40 mm. The final growth analysis study is now in progress. Several additional considerations must be made before any final conclusions can be drawn.

During a hard winter, such as we experienced in 1981, generally few fry survive but those who survive are hardier and will grow rapidly. Conversely if there is an easy winter and the majority of the fry live, including many of the weaker, the overall marine survival will tend to be less and the estimate of the return will also be less. Also of importance is the condition of the salmon smolt as they first enter the estuary. A cold winter will slow development and result in later outmigration. This factor is most pronounced on Chum salmon where the tendency is to spawn in upper river areas where cold winters are more severe.

These factors may have a substantial influence in our study this year. We have experienced a cold hard winter yet the Chum smolt are growing rapidly. The major consideration which has not been established is what percentage of the population experienced mortality upon introduction to the estuary.

FUTURE STUDIES

The Haines Klukwan Cooperative Resource Advisory Committee has funded this study for one more year to help establish the factors affecting the physical and biological characteristics of salmon smolt survival in the Chilkat and Chilkoot Inlets.



A deep water sampling device is readied by Doug Karnes to test water quality during salmon migration.

FISHERIES STUDY COORDINATION

Principal Investigators:
City of Haines for the Alaska Department of Natural Resources

PURPOSE

The purpose of the Coordination Team was essentially the same as the first year of the Resource Study, and included the following objectives:

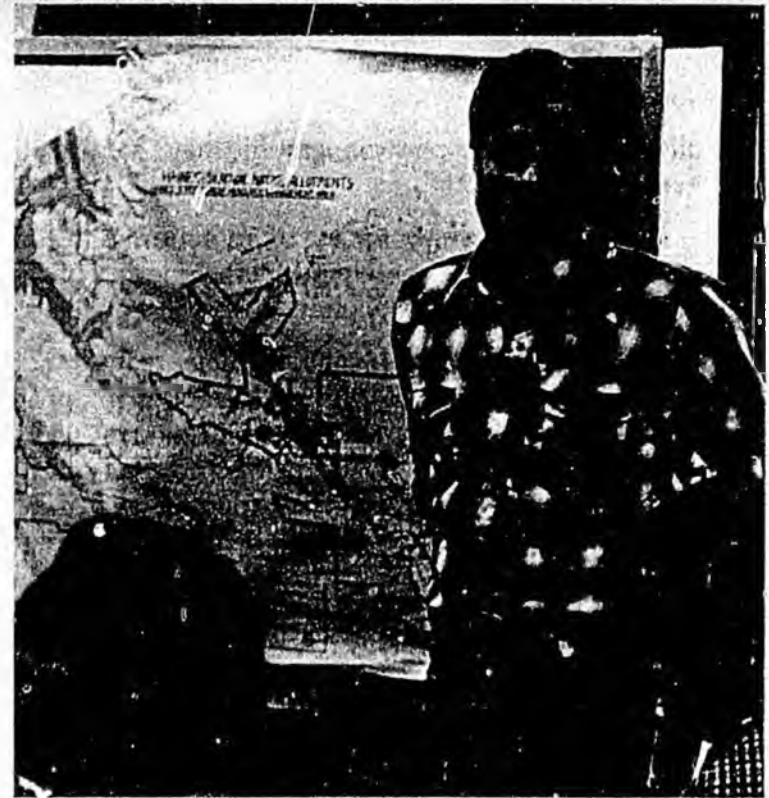
- Monitor all local fisheries habitat research and maintain progress reports in the Haines Resource Study Room
- Perform a literature search to identify all pertinent existing sources of information on salmon habitat and the relationship of the use of other resources to the maintenance of high quality fisheries habitat
- Heighten student and adult awareness of resource values found in the Chilkat Valley.

FIELD ACTIVITIES

The Coordination Team worked with local Fish and Game Biologist Ray Staska to stay abreast of all current field studies so that the information could be consolidated in the Resource Room Library. The Resource Room Library indexing system was improved. An additional 100 documents and publications were incorporated into the library.

Mrs. Dorothy Fossman prepared and taught two classes in resource values and utilization. The coordination team worked with Resource Study photographer George Figdor to produce a slide show with educational narrative on the historical, current and future aspects of the fisheries resource in the Chilkat Valley. The slide show will be used for education of children and adults alike as well as for presentations outside of Haines.

Considerable time was spent working on the Haines Eagle Bill to assist with the drawing of boundaries in relation to fish habitat requirements.

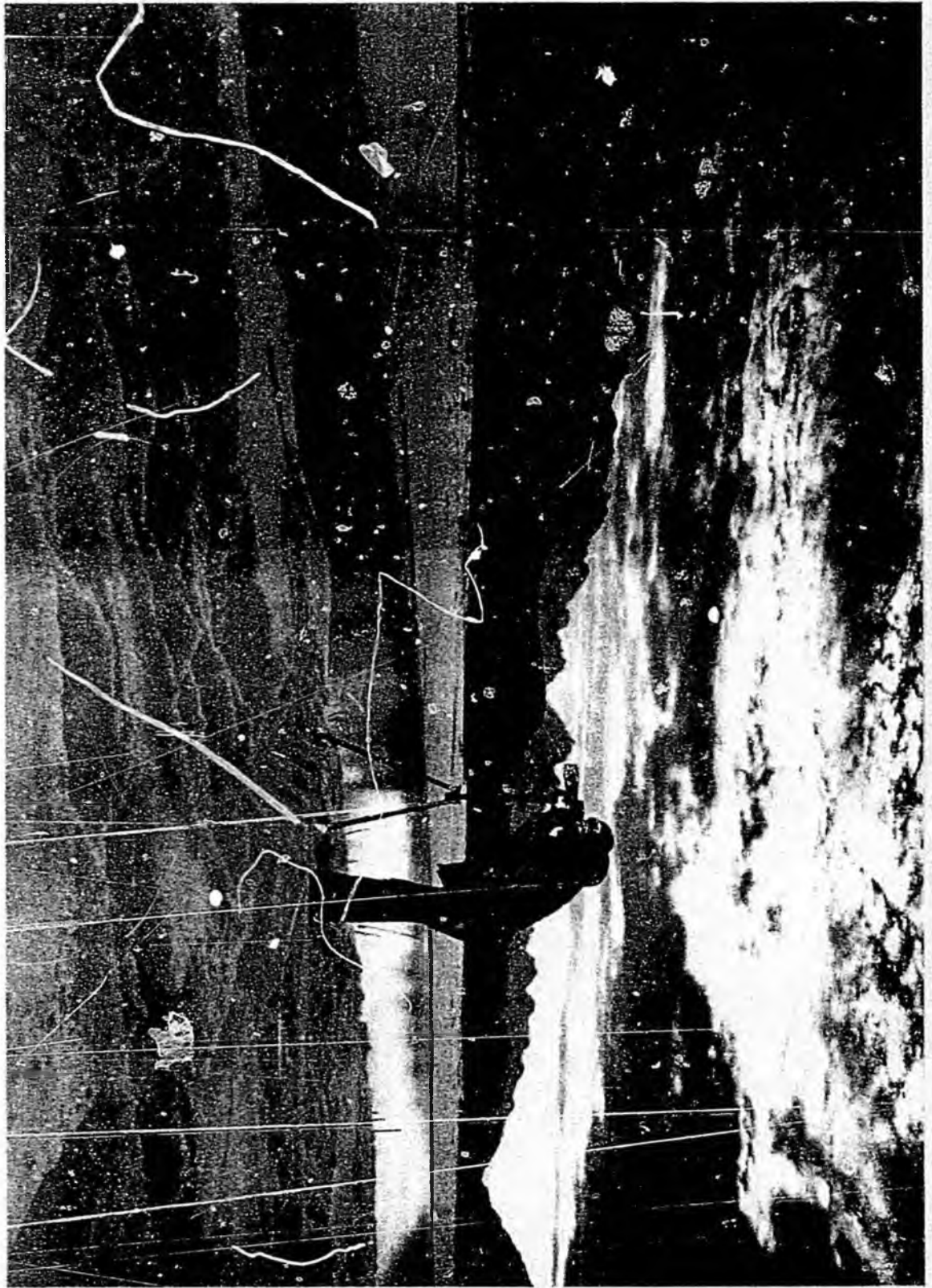


Fisheries biologist Ray Staska discusses fisheries studies with the Fisheries Coordination Team members and other researchers.

FUTURE STUDIES

In 1983 the Coordination Team will continue with its basic objectives and tasks and focus on the following:

1. Fully developing the new topographic maps as base maps for detailed fisheries research project locations.
2. Coordinating the development of an action plan for mitigation of negative impact of fisheries habitat which will include participation by all knowledgeable and responsible parties in relation to the impacted area.
3. Working very closely with the hydrology team to consolidate their findings in relation to the needs of fisheries habitat for protection of that habitat, as well as mitigation of man-made and natural damage, and future habitat enhancement projects. This area of study may be the most critical to the fisheries habitat and it is understood at this time that continuation of hydrology study beyond 1983 will be required. The team will work with the hydrology team to determine future study requirements, based on fisheries needs, so that the work and funding can be programmed in a timely fashion.



EAGLE STUDIES

CHILKAT VALLEY COOPERATIVE BALD EAGLE STUDY

Principal Investigator:
National Audubon Society

PURPOSE

In 1978, the National Audubon Society proposed a four-year, multi-disciplinary cooperative study to determine how the internationally significant population of bald eagles in the Chilkat Valley could best be protected. The Society initiated its study of eagle ecology in 1979 in cooperation with the U.S. Fish and Wildlife Service.

The Haines Klukwan Cooperative Resource Study in conjunction with the Chilkat Valley Cooperative Bald Eagle Study represents a true effort to understand natural resource systems, evaluate compatibility between resource uses and to seek rational solutions to potential resource use conflicts.

FIELD ACTIVITIES

Progress continued in the third year of the study. Audubon biologists again conducted weekly ground censuses in the fall and early winter months.

PRELIMINARY FINDINGS

Data gathered on bald eagle ecology during the first three years of a planned four-year study effort are showing consistent patterns regarding population dynamics, and use of specific habitat components in the Chilkat and Chilkoot valleys. This information in conjunction with that derived from ongoing companion studies involving fisheries and hydrology indicates that approximately 53,000 acres of essential eagle habitat are in need of permanent protection.

The peak winter eagle population in 1981-82 was reached on November 5 when a combined ground and air census revealed a total of 3700 birds.

Eagle distribution patterns were generally consistent with those of previous years. In October, largest concentrations occurred along the lower reaches of the Klukwan River. By late October eagles began to concentrate in the Bald Eagle Council Grounds on the Chilkat River between mileposts 19 and 22 along the Haines Highway. Ground census data indicate that 72, 86, and 99 percent of the eagle population occupied this area in November, December, and January, respectively.



Bald eagle perching near the Chilkat River.

Eagle use of the lower section of the Chikot River, tideline to milepost 19, remained relatively constant until freeze-up in early December. This cold period caused the departure of some 1000 eagles. By the end of December, when a second and more severe cold period arrived, the eagle population dropped to approximately 300 birds and remained near that level throughout January. As in previous years, eagle distribution throughout the season was directly related to the abundance and availability of spawned-out salmon, with dead and dying chums the preferred food source.

Eagle use of communal winter roost habitat involving spruce/hemlock timber was also consistent with previous findings. Conifers on the Tahkin Ridge between Chilkat Lake and the Tsirku River delta were again heavily used as night roosts.

Aerial census data for Chilkat Lake revealed a winter population ranging from 150 eagles in November to 300 in late December. In the Chilkoot drainage, the eagle population fluctuated between 150-250 eagles throughout the winter period.

FUTURE STUDIES

Future eagle study efforts will continue to give emphasis to determining the origin of birds frequenting the Chilkat and Chilkoot valleys, their seasonal movement patterns, and use of specific habitat types, feeding habits, and response to different types of human disturbance. Continued support will also be needed for the currently uncompleted interdisciplinary resource studies under the purview of the Haines Klukwan Cooperative Resource Study Advisory Committee. It is recommended that these studies be broadened to include an evaluation of public uses within the Alaska eagle preserve and forest with emphasis on recreation and subsistence. Results from these studies will prove invaluable for preparation of comprehensive management plans for the eagle sanctuary and adjacent state forest lands. Such plans should be prepared and implemented within two years.



Audubon biologist Erv Boeker uses spotting scope to conduct ground census of bald eagles.

EAGLE SURVEY AND RADIO TELEMTRY

Principal Investigator:

Jack Hedges for the U.S. Fish and Wildlife Service
in cooperation with the National Audubon Society and the Alaska
Department of Natural Resources

PURPOSE

The U.S. Fish and Wildlife Service continued its population surveys and radio telemetry studies to accomplish the following objectives:

- to document the numbers and distribution of eagles in the Chilkat and Chilkoot Valleys during the fall concentration period
- to determine the nesting populations that are using the Chilkat River and to identify the migration patterns of bald eagles after departing the valley
- to determine the distribution of breeding pairs in the valley and measure their rate of productivity.

FIELD ACTIVITIES

Aerial counts of bald eagles were made in the Chilkat and Chilkoot Valleys on seven occasions during the concentration period. Fifteen eagles were captured and outfitted with miniature radio transmitters. Eight radio tracking flights were conducted in the Chilkat Valley, five flights covered all of southeast Alaska and two additional flights covered the Pacific coast from Anchorage to Seattle. Aerial nesting surveys were conducted in the Chilkat Valley in the summer of 1981 and spring of 1982.

PRELIMINARY FINDINGS

The aerial surveys of the Chilkat and Chilkoot Valleys demonstrated that the patterns of eagle use were consistent between years. Numbers peaked at over 3,000 in late November.



Erv Boeker sets up perch trap to capture bald eagle to harness radio transmitter.



Researchers attach radio transmitter to bald eagle.

Radio tracking efforts were highly successful. The locations of all fifteen of the radioed eagles were known in the spring of 1982 after departing the valley in the winter. They had scattered southward from Haines to Washington. The adults all stayed in southeast Alaska while the distant migrants to British Columbia and Washington were all immatures. Only one young eagle was radioed in the Yukon Territory near Whitehorse. The eagle did not visit the Chilkat River as expected but was found in northwest Washington the following spring.

Productivity for 1981 as well as for 1980 was low. Nesting surveys in 1981 showed that six young were fledged from 27 active nest sites. Spring surveys in 1982 indicated 32 active nests this year.

FUTURE STUDIES

An additional year of field work, including population surveys, radio tracking studies and nest productivity surveys will provide the information needed to make scientifically sound conclusions about the Chilkat bald eagles.



Erv Boeker tracks bald eagles with radio receiver.



SOILS

SOILS AND VEGETATION INVENTORY

Principal Investigator:

Joe McClosky for the U.S. Soil Conservation Service in cooperation with the Alaska Department of Natural Resources

PURPOSE

During the second year of the Haines Klukwan Cooperative Resource Study the purpose of the soil and vegetation inventory remained the same as last year. Since soils are a basic element of the land, information on soils is essential if resource managers are to get optimum return from the use of all resources while protecting and maintaining renewable resources.

FIELD ACTIVITIES

The soil survey is in its second mapping season and data is continually being collected and correlated.

Mapping is at a scale of 1: 24,000 and the published soil survey will contain maps that show the location of various types of soils together with narrative descriptions of the properties and limitations of each soil type. Similar soils will also be separated with slope breaks at 5%, 20%, 40% and 70%. Woodland potential productivity will be correlated with individual soils.

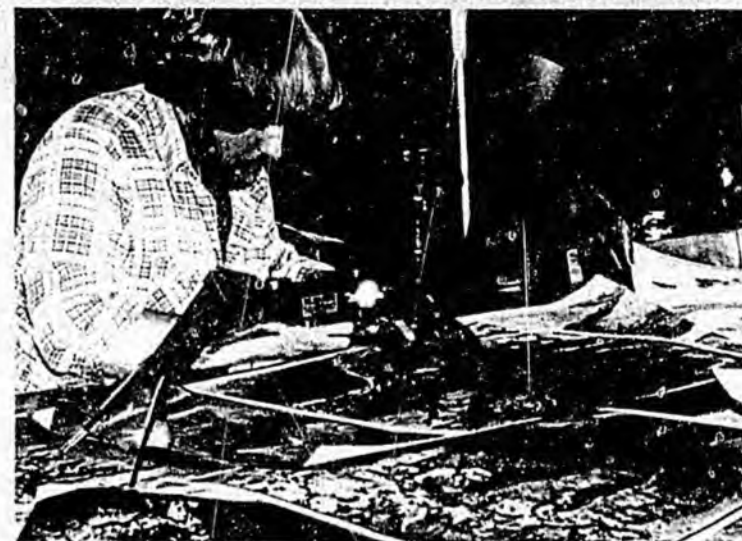
PRELIMINARY FINDINGS

To date, over 100 soil mapping units have been observed and mapped. Over 40 soil-woodland observations have been recorded. A definite pattern between soils, landscape and vegetation has been established and mapping is proceeding according to schedule.

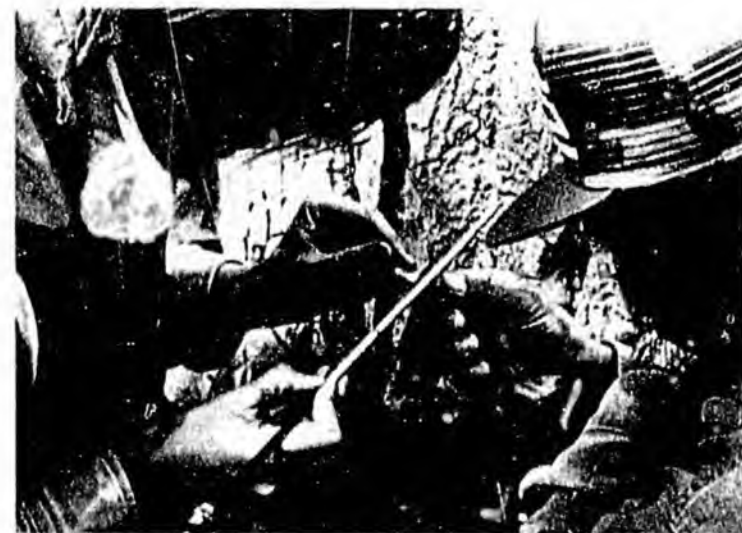
FUTURE STUDIES

The National Soils Laboratory is scheduled to assist in the project next year. The lab will:

- provide information to verify classification and resolve taxonomic problems in the area
- indicate soil changes induced from forest management practices
- make much needed contributions to investigations of soil genesis in the area
- build up a soil data base for correlation purposes



Joe McClosky studies aerial photographs as part of soil mapping project.



Researchers study cottonwood tree core sample which will allow them to determine age of tree.



TOPOGRAPHIC MAPPING

TOPOGRAPHIC MAPPING

Principal Investigator:
Air Photo Tech for the
Alaska Department of Natural Resources

PURPOSE

Forest managers for the Department of Natural Resources have been hampered by the lack of good topographic maps when planning timber harvest layouts, road alignments, inventories and other day-to-day management activities. A contract issued in 1981 established the necessary ground control, aerial photography, and subsequent topographic maps for approximately 60,000 acres of land in the Chilkat, Kelsall, and Klehini River drainages. The finished maps were received in early 1982. This project has produced topographic maps with a twenty foot contour interval at a 1" = 400' scale. These maps are being used by forest managers, other land managers, researchers, and the public. The Soil Conservation Service is currently using the maps for slope interpretations as part of its soils and vegetation study of the Chilkat Valley.

FIELD ACTIVITIES

Field activities during the spring of 1981 were divided between establishing surveying control points and then taking aerial photographs of most of the Chilkat and Kelsall River valleys north of Kicking Horse River in preparation for map making during the summer of 1981.

PRELIMINARY FINDINGS

The first contract established the ground control and aerial photos and topographic mapping coverage on approximately 60,000 acres.

FUTURE STUDIES

The Haines-Klukwan Cooperative Resource Study Advisory Committee has requested funding for Fiscal Year 1983 to produce contour maps of areas adjacent to the initial project.



District Forester Paul Maki describes topographic mapping efforts during 1982.



MOOSE AND GOAT WINTER RANGE

MOOSE AND GOAT WINTER RANGE

Principle Investigator:
Alaska Department of Fish and Game

PURPOSE

The winter season is a critical time for many different species of wildlife. Forage abundance and availability, protective cover, weather extremes and snow depths are all important factors in determining the survival and health of wintering moose and mountain goat populations. Forest cover, including commercial spruce and hemlock forest, provides an important function in moose and goat survival during the winter and spring periods.

The Department of Fish and Game is attempting to identify areas of commercial forest that are important to moose and mountain goats. The objectives are to:

- describe the seasonal distributions, habitat preferences and human use of the moose and goats
- evaluate the effects of proposed timber harvesting on these wildlife populations

FIELD ACTIVITIES

Twenty moose and five goats were fitted with radio collars during October. An average of two radio relocation flights a month were flown and these animals located. Standard habitat type, climatic, topographic and biological data has been obtained for each flight and animal. The moose were captured in the lower Chilkat and Taklin Valleys, and the goats in the Kelsall Valley.

Ground Surveys of proposed timber harvest units were made during the fall. Ground surveys of forested moose wintering areas and on-ground radio tracking was done periodically throughout the fall and winter. Evidence of moose use of forested areas was documented with respect to habitat factors, snow depth, browse and moose activity. An aerial survey of moose on the winter range in the Chilkat Valley was taken during February. Additional work was done on identifying timber volumes, timber types and old and future timber cuts.



Researchers study maps prior to departure for aerial survey.



Wayne Eberhardt displays radio collar that is attached to moose for tracking.

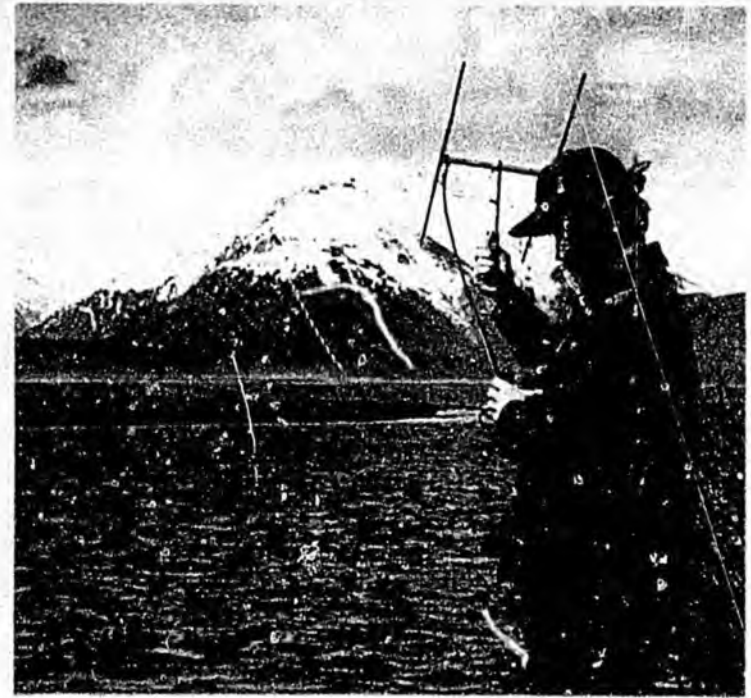
PRELIMINARY FINDINGS

Moose were found to use forested areas during the fall and winter season. They used the stands for feeding, bedding and travel. A preference for forested stands may occur during cold, windy weather. Forested areas, in combination with areas of swamp and brush appear to be important to wintering moose. Seasonal travel routes and specific wintering areas were identified and preliminary ground work was begun. The use of forest stands may occur on a daily or weather related basis. Major travel routes have been located in several forest stands. Forest stands may be an integral part of moose home ranges.

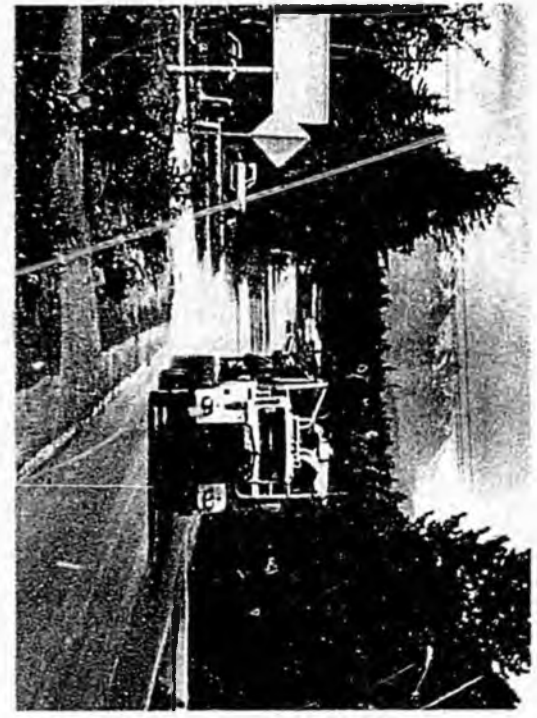
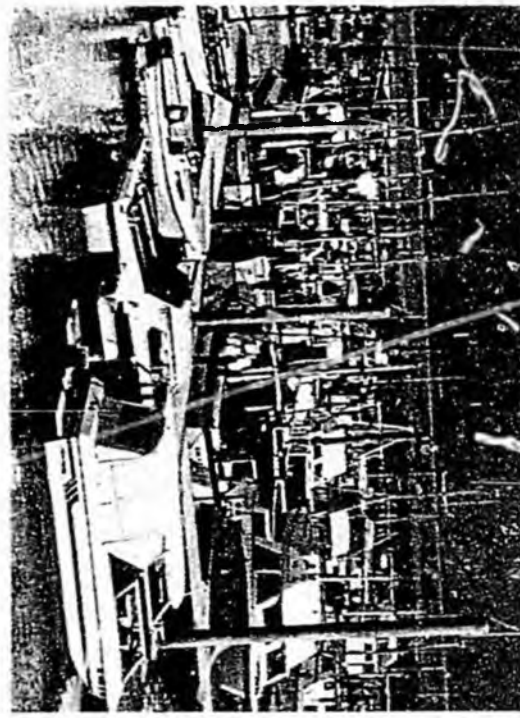
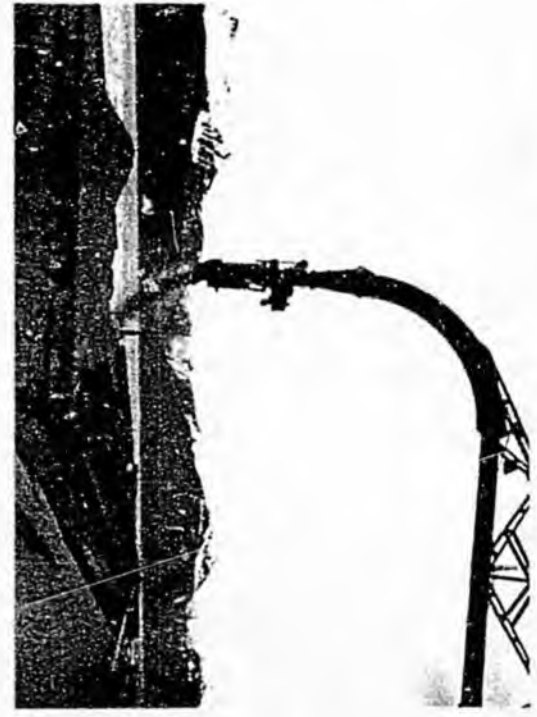
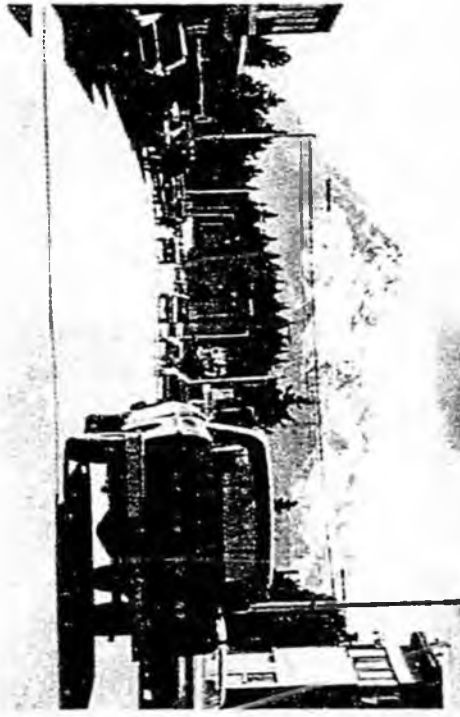
Mountain goats use forest stands at different times during the fall and winter. A seasonal shift to forest stands was observed in April. Seasonal movements of a few miles were observed but goats appear to stay in specific areas and make only vertical movements associated with snow depth and season. Wintering goat habitat characteristics are being identified using both aerial and ground survey techniques.

FUTURE STUDIES

Aerial radio telemetry work will continue through the next field season. Attempts will be made to radio collar five more goats in the Kellsall Valley. Ground survey work on moose and goat winter range will continue. Forested stands in winter range will be identified and vegetation transects and pellet group sampling will be done within those stands and adjacent habitats as feasible. Seasonal home ranges will be identified and moose movement patterns studied further.



Wayne Eberhardt tracks moose with radio receiver.



BUDGET SUMMARIES

HAINES KLUKWAN COOPERATIVE RESOURCE STUDY

FY82 STATE BUDGET (July 1, 1981 — June 30, 1982)

	FY82
1. Haines Cooperative Study Room	\$ 15,000
2. Fisheries	50,300
a. Salmon Habitat Inventory	\$20,500
b. Chum Salmon Spawning Inventory	11,200
c. Fisheries Study Coordinator	3,400
d. Out-migration Inventory for Chilkat and Chilkoot Inlets	15,200
3. Moose and Goat Habitat	63,400
4. Topographic Mapping	43,300
5. Eagle Tracking	30,000
6. Study Report and Photo Support	6,000
7. Travel	4,000
Subtotal	\$212,000

DNR INVENTORY CAPITAL BUDGET

1. Hydrology (to match Federal funds)	\$ 70,000
2. Soils (to match Federal funds)	50,000
Subtotal	\$120,000
Grand Total	\$332,000

FY83 BUDGET (July 1, 1982 — June 30, 1983)

	FY83
1. Haines Cooperative Resource Room	\$ 15,000
2. Fisheries	50,000
• Gravel sampling	
• Out-migration data	
• Sonar	
• Coordination	
3. Subsistence Use Profile	10,000
4. Moose and Goat Habitat	58,000
5. Topographic Mapping	40,000
6. Recreation Planning	25,000
7. Final Report and Photo Support	12,000
8. Travel	2,000
Subtotal	\$212,000

DNR INVENTORY CAPITAL BUDGET REQUEST

1. Hydrology (U.S. Geological Survey — includes \$50,000 Federal match)	\$140,000
2. Soils (U.S. Soil Conservation Service — includes \$72,000 Federal match)	144,000
3. Geological Hazards	96,300
4. Minerals	126,298
Subtotal	\$506,598
Grand Total	\$721,578

Original sponsor: Ray

Offered: 5/3/82
Referred: Rules

IN THE SENATE

BY THE RESOURCES COMMITTEE

HOUSE CS FOR CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 796 (Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act providing for the management of state-owned land in the Haines area, establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area, and providing for an effective date."

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

* Section 1. AS 41.20 is amended by adding new sections to read:

ARTICLE 16. ALASKA CHILKAT BALD EAGLE PRESERVE.

Section 41.20.506. DECLARATION OF PURPOSE. (a) The purpose of AS 41.20.506 - 41.20.525 is to establish the state-owned land and water described in AS 41.20.507(k) as the Alaska Chilkat Bald Eagle Preserve as part of the state park system. The primary purpose of establishing the Alaska Chilkat Bald Eagle Preserve is to protect and perpetuate the Chilkat bald eagles and their essential habitats within the Alaska Chilkat Bald Eagle Preserve in recognition of their statewide, nationally, and internationally significant values in perpetuity.

(b) The Alaska Chilkat Bald Eagle Preserve is also established to

(1) protect and sustain the natural salmon spawning and rearing areas of the Chilkat River and Chilkoot River systems within the preserve in perpetuity;

(2) provide continued opportunities for research, study and enjoyment of bald eagles and other wildlife;

(3) ensure to the maximum extent practicable water quality and necessary water quantity under applicable laws;

(4) provide for other public uses consistent with the primary

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purpose for which the Alaska Chilkat Bald Eagle Preserve is established; and

(5) provide an opportunity for the continued traditional and natural resource based lifestyle of the people living in the general areas described in AS 41.20.507(k), consistent with the other purposes of AS 41.20.506(a) and (b).

(c) It is the intent of the legislature in enacting AS 41.20.506 - 41.20.525 to provide sufficient protection for the purposes for which the Alaska Chilkat Bald Eagle Preserve is established. Accordingly, the establishment of the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area (AS 41.15.500 - 41.15.520) is determined to represent a proper balance between the reservation of state public domain land and water for bald eagle preserve purposes and state public domain land and water more appropriate for multiple use. Therefore, the legislature determines that there is no need for legislation expanding or contracting the boundary of the Alaska Chilkat Bald Eagle Preserve in the future; the legislature further determines that study by a state agency of the expansion or contracting of the boundary of the preserve shall be conducted under AS 41.20.507(j).

(d) Inasmuch as the area described in AS 41.20.507(k) exceeds 640 acres, AS 41.20.506 - 41.20.525 are intended to close the area to multiple use in conformity with AS 38.05.300 and the land is dedicated as a special purpose site under art. VIII, sec. 7 of the state constitution.

Sec. 41.20.507. ESTABLISHMENT AND MANAGEMENT. (a) Subject to valid existing rights, the land and water presently owned by the state and all land and water acquired in the future by the state lying within the boundaries described in (k) of this section are designated the Alaska Chilkat Bald Eagle Preserve and assigned to the Department of Natural Resources for control, development, and maintenance.

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(b) Private land, approved or pending Native allotments, pending and approved land selections made by the Haines Borough under state law or the effective date of this Act, University of Alaska grant land not located within the Chilkat River Critical Habitat Area established by AS 16.20.230(8) and existing transportation and utility corridors located partially or completely within the Alaska Chilkat Bald Eagle Preserve are excluded from the Alaska Chilkat Bald Eagle Preserve. The commissioner of natural resources may not acquire private land or University of Alaska grant land located partially or completely within the Alaska Chilkat Bald Eagle Preserve by eminent domain for any purpose.

(c) Approved or pending Native allotments located partially or completely within the Alaska Chilkat Bald Eagle Preserve are not adversely affected by the establishment of the Alaska Chilkat Bald Eagle Preserve and all approved allotments and all pending allotments located partially or completely within the preserve shall be treated as private land.

(d) The Department of Fish and Game is responsible for the management of fish and game resources in the Alaska Chilkat Bald Eagle Preserve

(1) under applicable law and consistent with the purposes of AS 41.20.506 - 41.20.525;

(2) subject to the authority of the Secretary of the Interior to permit the taking of bald eagles for the religious purposes of an Indian tribe under sec. 2 of the Bald Eagle Protection Act, 16 U.S.C., Sec. 668a.

(e) The Department of Natural Resources shall consult with the Department of Fish and Game, the United States Fish and Wildlife Service, a local governing body of a municipality, any local fish and game advisory committee, and the Alaska Chilkat Bald Eagle Preserve Advisory

Council established by AS 41.20.515 before adoption of reasonable regulations governing public use and protection of the Alaska Chilkat Bald Eagle Preserve. The Department of Fish and Game shall consult with the Department of Natural Resources and the Alaska Chilkat Bald Eagle Preserve Advisory Council in proposing regulations governing fish and game management in the Alaska Chilkat Bald Eagle Preserve for adoption by the Board of Fisheries or the Board of Game. The Department of Fish and Game and the Department of Natural Resources shall cooperate with the United States Fish and Wildlife Service in its administration of federal law governing the conservation of bald eagles.

(f) The state land and water described in (k) of this section are closed to mineral entry under AS 38.05.135 - 38.05.280, to commercial harvest of timber, and to sale under state land disposal laws. The commissioner of natural resources may lease the land described in (k) of this section under AS 38.05.070 - 38.05.105 for a purpose consistent with AS 41.20.506(a) and (b); a municipality may select land within the Alaska Chilkat Bald Eagle Preserve under law.

(g) Continued opportunities for traditional uses of the Alaska Chilkat Bald Eagle Preserve at levels and by methods and means that are compatible with the protection of the bald eagle population are guaranteed. These historically compatible uses include but are not limited to hunting, trapping, fishing, berry picking, other subsistence and recreational uses, operation of motorized vehicles, and the harvesting of personal-use firewood. The level and method or means of traditional use may continue subject to reasonable regulation unless the director of the division of parks, Department of Natural Resources, after consultation with the Alaska Chilkat Bald Eagle Preserve Advisory Council, makes a finding that the level or method and means of use is causing significant resource damage that is inconsistent with AS 41.20.506(a) and (b). The

director of the division of parks shall hold a public hearing in Haines and Klukwan before restricting a traditional use permitted under this section.

(h) If privately owned land, University of Alaska grant land, valid mining rights, existing mineral leases, subsurface rights on private land, or other valid occupancy is surrounded by state land of the Alaska Chilkat Bald Eagle Preserve or if privately owned land, University of Alaska grant land, federal land, municipal land, or state land not described in (k) of this section, valid mining claims, subsurface rights, or other valid occupancy on land not described in (k) of this section does not have reasonable, timely, and economically feasible access and egress by means other than crossing land designated as Alaska Chilkat Bald Eagle Preserve land in (k) of this section, the director of the division of parks shall grant a private landowner, the University of Alaska, a holder of valid existing rights to land, or a state agency, municipality, or federal agency rights necessary to assure reasonable, timely, and economically feasible access and egress. A permittee or licensee of an owner of land or holder of valid existing rights to land may use access and egress granted under this subsection. The rights of access and egress granted under this subsection are subject to reasonable regulation and stipulations established by the director of the division of parks after consulting with the Alaska Chilkat Bald Eagle Preserve Advisory Council to protect the purposes and values of the Alaska Chilkat Bald Eagle Preserve and to minimize adverse environmental impacts in the preserve. As used in this subsection, "valid existing rights" includes but is not limited to valid mining rights, existing mineral rights, and subsurface rights. The director of the division of parks shall give a favorable consideration to applications for utility rights-of-way that are compatible with AS 41.20.506(a) and (b).

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(i) The director of the division of parks and the Alaska Chilkat Bald Eagle Advisory Council established under AS 41.20.515, in written consultation with the United States Fish and Wildlife Service, the Department of Fish and Game, the Chilkat Indian Village, the Chilkoot Indian Association, and other appropriate groups, may use information gained through cooperative resource studies in the development of the management plan for the Alaska Chilkat Bald Eagle Preserve and in decisions affecting the management and administration of the preserve. The director of the division of parks and the advisory council shall investigate the need for additional research to increase knowledge and understanding of the natural and cultural resources of the area and to enhance the effective management of the Alaska Chilkat Bald Eagle Preserve.

(j) An agency of the state may not participate or cooperate with a federal or private study considering additions to or deletions from the area of the Alaska Chilkat Bald Eagle Preserve without giving 90 days prior notice to the Alaska Chilkat Bald Eagle Preserve Advisory Council. The director of the division of parks may waive the notice required by this subsection on his determination in writing to the advisory council that an emergency necessitates immediate study or a shorter period of notice to the advisory council.

(k) Except for University of Alaska grant land, the land and water owned by the state and all land and water acquired by the state in the future lying within the following described parcels are designated as the Alaska Chilkat Bald Eagle Preserve:

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Because of the excessive length of the legal description, this section has been deleted. For a copy of the legal description contact the Department of Natural Resources, Pouch M, Juneau, AK. 99811.

(l) Historical, cultural, and burial sites identified in the Alaska Chilkat Bald Eagle Preserve management plan are not available for surface disposal under AS 41.20.507(f) and shall be managed by the director of parks to prevent vandalism, destruction, and desecration.

(m) The director of the division of parks and the director of the division of forestry shall consult in the preparation of the management plan prepared under AS 41.20.507(i) to promote effective, efficient, and coordinated administration of the Haines State Forest Resource Management Area and the Alaska Chilkat Bald Eagle Preserve for the purposes and values for which each is established.

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(n) University of Alaska grant land located within the boundary of the Chilkat River Critical Habitat Area established under AS 16.20.230(8) is excluded from the Alaska Chilkat Bald Eagle Preserve.

Sec. 41.20.515. ALASKA CHILKAT BALD EAGLE PRESERVE ADVISORY COUNCIL. (a) A 12-member Alaska Chilkat Bald Eagle Preserve Advisory Council is established. The members of the advisory council shall be selected under this section.

(b) The governor shall appoint individuals to the Alaska Chilkat Bald Eagle Preserve Advisory Council representing the following interests for a two-year term:

(1) a resident of the Haines Borough representing a conservation organization; and

(2) a representative of the United States Fish and Wildlife Service;

(3) a member of the Upper Lynn Canal fish and game advisory committee.

(c) The mayor of the City of Haines, the mayor of the Haines Borough, the president of Klukwan, Inc., the chairman of the Council of the Chilkat Indian Village, and the chairman of the Chilkoot Indian Association are ex officio members of the Alaska Chilkat Bald Eagle Preserve Advisory Council. The mayor of the Haines Borough may recommend to the governor for appointment to the advisory council the name of a resident of the Haines Borough for the representation of commercial or industrial interests.

(d) The commissioner of fish and game, the director of the division of parks, and the director of the division of forestry, or their designees, serve ex officio as members of the Alaska Chilkat Bald Eagle Preserve Advisory Council.

(e) The Alaska Chilkat Bald Eagle Preserve Advisory Council shall

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assist the Department of Natural Resources in the development and monitoring of a management plan for the Alaska Chilkat Bald Eagle Preserve. The management plan shall be presented at public hearings in Haines and Klukwan before approval and implementation by the department.

(f) Members of the Alaska Chilkat Bald Eagle Preserve Advisory Council selected under (b) - (d) of this section may select alternates to act as members of the advisory council in their absence.

Sec. 41.20.525. EXISTING RIGHTS. The establishment of the Alaska Chilkat Bald Eagle Preserve under AS 41.20.506 - 41.20.525 does not enlarge, diminish, add to, or waive a requirement of law otherwise applicable to the management or use of the state land of the Haines State Forest Resource Management Area (AS 41.15.500 - 41.15.520) or private land. An activity allowed under law on land not described in AS 41.20.507(k), including but not limited to an activity described in AS 41.20.507(g), timber harvest, mining, resource development, and recreation, is permitted so long as the activity is conducted in compliance with law.

* Sec. 2. AS 41.15 is amended by adding new sections to read:

ARTICLE 3A. HAINES STATE FOREST RESOURCE MANAGEMENT AREA.

Sec. 41.15.500. HAINES STATE FOREST RESOURCE MANAGEMENT AREA. (a) The purpose of AS 41.15.500 - 41.15.520 is to establish the land and water presently owned by the state and all land and water acquired in the future by the state lying within the boundaries described in AS 41.15.510(m) as the Haines State Forest Resource Management Area. The primary purposes for the establishment of the Haines State Forest Resource Management Area are the utilization, perpetuation, conservation, and production of the land and water including but not limited to the use of renewable and nonrenewable resources through multiple-use management and the continuation of other beneficial uses including traditional

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uses and other recreational activities.

(b) The responsibility for the management, control, development, and maintenance of the Haines State Forest Resource Management Area established under AS 41.15.500 - 41.15.520 is assigned to the Department of Natural Resources.

Sec. 41.15.510. BOUNDARIES AND MANAGEMENT OF HAINES STATE FOREST RESOURCE MANAGEMENT AREA. (a) Subject to valid existing rights, the land and water presently owned by the state and all land and water acquired in the future by the state lying within the following described parcels are designated as the Haines State Forest Resource Management Area:

(1) All lands encompassed by U.S. Survey 3708, Tracts A, B and C but excluding U.S.H.S. 2206.

(2) Those mental health lands (MH-153) approved in the state selection letter from the United States Bureau of Land Management dated August 26, 1974, described as follows: Beginning at corner No. 1 of this tract which is common to angle point No. 5 of U.S. Survey 3708, then north 02°13'51" west 52.639 chains along the survey line to corner No. 2 of this tract which is common to angle point No. 6 of U.S. Survey 3708, then north 12°00'18" west 13.346 chains to corner No. 3 of this tract which is common to angle point No. 7 of U.S. Survey 3708, then north 53°57'42" west 537.070 chains to corner No. 4 of this tract which is common to angle point No. 7-A of U.S. Survey 3708, then south 0°0'30" east 63.06 chains to corner No. 5 of this tract, then south 53°57'42" east 542.00 chains to corner No. 1 of this tract and angle point No. 5, U.S. Survey 3708, the point of beginning.

(3) Township 28 South, Range 56 East, Copper River Meridian Section 29; that portion of the 1/2 lying east of U.S.S. 3708

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- Section 34: NW1/4, SE1/4
- (4) Township 28 South, Range 57 East, Copper River Meridian
 - (5) Township 28 South, Range 58 East, Copper River Meridian
 - (6) Township 29 South, Range 57 East, Copper River Meridian
- Section 36: that portion of Lots 1, 5, 6, and 10 lying east of U.S.S. 3708
- (7) Township 29 South, Range 58 East, Copper River Meridian
 - (8) Township 29 South, Range 59 East, Copper River Meridian
 - (9) Township 29 South, Range 60 East, Copper River Meridian
- Sections 19 - 36
- (10) Township 29 South, Range 61 East, Copper River Meridian
- Sections 19 - 36
- (11) Township 29 South, Range 62 East, Copper River Meridian
- Sections 19 and 20
- Sections 29 - 32
- (12) Township 30 South, Range 57 East, Copper River Meridian
- Section 1: that portion of Lot 1 lying east of U.S.S. 3708
- (13) Township 30 South, Range 58 East, Copper River Meridian
- That portion lying east and south of U.S.S. 3708
- (14) Township 30 South, Range 59 East, Copper River Meridian
- Sections 1- 10
- Section 12
- Sections 14 - 23
- Section 27: that portion lying west of the Haines Corporation boundary
- Sections 28 - 31
- Section 33
- (15) Township 30 South, Range 60 East, Copper River Meridian

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- (16) Township 30 South, Range 61 East, Copper River Meridian
 - (17) Township 30 South, Range 62 East, Copper River Meridian
- Sections 5 - 8
- Sections 17 - 20
- Sections 29 - 32
- (18) Township 31 South, Range 58 East, Copper River Meridian
 - (19) Township 31 South, Range 59 East, Copper River Meridian
- Sections 6 - 8
- Sections 16 - 22
- Sections 27 - 34
- (20) Township 31 South, Range 60 East, Copper River Meridian
- Sections 1 - 4
- Sections 9 - 15
- Sections 22 - 24
- Sections 35 and 36
- (21) Township 31 South, Range 61 East, Copper River Meridian
- Sections 1 - 30
- (22) Township 31 South, Range 62 East, Copper River Meridian
- Sections 5 - 8
- Sections 17 - 20
- Sections 31 and 32
- (23) Township 32 South, Range 59 East, Copper River Meridian
- Sections 3 - 33
- Sections 34 - 36: that portion lying north of the Tongass National Forest boundary

(b) Private land, University of Alaska grant land, existing transportation corridors, and borough selection within the Haines State Forest Resource Management Area are excluded from the Haines State Forest Resource Management Area. The commissioner of natural resources

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may not acquire private land or University of Alaska grant land located within the Haines State Forest Resource Management Area by eminent domain for any purpose.

(c) Approved or pending Native allotment applications located partially or completely within the Haines State Forest Resource Management Area are not adversely affected by the establishment of the Haines State Forest Resource Management Area and all approved allotments and all pending allotments shall be treated as private land.

(d) The division of forestry shall consult with the division of parks, the Department of Fish and Game, including each local fish and game advisory committee with jurisdiction in the area, and the Alaska Chilkat Bald Eagle Preserve Advisory Council to promote effective, efficient, and coordinated administration of the Haines State Forest Resource Management Area and the Alaska Chilkat Bald Eagle Preserve for the values for which each is established.

(e) Resource studies undertaken by the Department of Natural Resources shall be designed to benefit the management and administration of the Haines State Forest Resource Management Area and the Alaska Chilkat Bald Eagle Preserve.

(f) The establishment of the Haines State Forest Resource Management Area has no effect on the terms and conditions of an existing permit or contract involving use of the land, water, or other resources of the Haines State Forest Resource Management Area.

Sec. 41.15.520. MULTIPLE-USE MANAGEMENT. (a) The Haines State Forest Resource Management Area shall be managed under the principles of multiple use and sustained yield, under AS 41.17, and under a management plan prepared by the Department of Natural Resources. The plan may not be adopted or revised without prior review by the Board of Forestry or without a public hearing held in Haines and Klukwan.

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(b) The Department of Natural Resources shall periodically review and revise the management plan adopted for the Haines State Forest Resource Management Area under (a) of this section. The management plan should be based on a current operational level inventory completed within the last 10 years and revised as future inventory information becomes available to the department.

(c) A copy of a management plan and any revision to it prepared by the Department of Natural Resources, reviewed by the Board of Forestry and adopted by the department after public hearings required under (a) of this section shall be provided to the legislature within 30 days of its adoption or revision or within the first 10 days of the first session of the legislature to convene after its adoption or revision.

(d) The Department of Fish and Game is responsible for the management of fish and game resources in the Haines State Forest Resource Management Area under applicable law and in a manner consistent with AS 41.15.500 - 41.15.520 except that an opportunity for continued traditional use of the Haines State Forest Resource Management Area at levels and by traditional methods and means is guaranteed. The traditionally compatible uses include but are not limited to fishing, hunting, trapping, berry picking, subsistence, and recreational uses, operation of motorized vehicles, and the harvest of personal-use firewood.

(e) The control of highway access within the Haines State Forest Resource Management Area is the responsibility of the Department of Natural Resources except that the Department of Transportation and Public Facilities is responsible for the repair and maintenance of public roads in the Haines State Forest Resource Management Area.

(f) The state land and water described in AS 41.15.510(a) are closed to sale under state land disposal laws. The commissioner of natural resources may lease the land described in AS 41.15.510(a) under

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AS 38.05.070 - 38.05.105 for a purpose consistent with AS 41.15.500(a) and a municipality may select land in the Haines State Forest Resource Management Area under law.

(g) The Department of Natural Resources shall consult with the Department of Fish and Game and the governing bodies of each municipality in the general area during preparation of a management plan under (a) and (b) of this section and during formulation of regulations governing the use of the Haines State Forest Resource Management Area. The Department of Fish and Game shall consult with the Department of Natural Resources and local fish and game advisory committees before adopting regulations governing fish and wildlife management in the Haines State Forest Resource Management Area. Regulations may not be adopted by either department without prior review at a public hearing in Haines and Klukwan.

(h) The Department of Natural Resources may enter into cooperative management agreements with a person who holds title to or has a valid entry on land within or adjoining the boundaries of the Haines State Forest Resource Management Area.

* Sec. 3. The management plan for the Alaska Chilkat Bald Eagle Preserve prepared by the Department of Natural Resources under AS 41.20.507(i) as enacted in sec. 1 of this Act shall be adopted and implemented within two years after the effective date of this Act.

* Sec. 4. The management plan for the Haines State Forest Resource Management Area prepared by the Department of Natural Resources under AS 41.15.520 enacted in sec. 2 of this Act shall be adopted and implemented within two years after the effective date of this Act. The Haines-Skagway Area Land Use Plan adopted by the Department of Natural Resources in 1979 shall be used as the basis for preparation of the initial management plan for the Haines State Forest Resource Management Area. Before approval of the management plan

prepared under AS 41.15.520, management of the Haines State Forest Resource Management Area shall be conducted under the land use allocations and the appropriate management provisions of the Haines-Skagway Area Land Use Plan.

* Sec. 5. This Act takes effect July 1, 1982.