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Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



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

Senate

Committee on Resources

MINUTES

January 30, 1984
3:02 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chair
Senator Eliason
Senator P. Fischer
Senator V. Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 349, An Act relating to recreational activities in state parks.

SJR 32, Relating to the capture of orcas in Alaska waters.

SB 349

Senator Faiks testified in support of SB 349. This bill would require the Department of Natural Resources to consider the users of horses and other animals when promulgating new regulations in state parks.

Carol Wilson, Special Assistant to the Commissioner, Department of Natural Resources, spoke in support of this bill. It would allow the department to have a consistent guideline while still making decisions on a park by park basis. She referred to an existing order that allows horses in some parts of Chugach State Park.

Senator Mulcahy moved the bill from Committee with individual recommendations. The motion passed without objection.

Senator Vic Fischer spoke of his growing concern about the methods of capturing whales and asked that more consideration be given to Alaska and Alaskans when issuing permits for capture.

Dennis Kelso, Deputy Commissioner, and John Burns, Chief Marine Biologist, Alaska Department of Fish and Game (ADF&G), have determined that, based on ADF&G's best estimate of orca population in the areas affected, the population can biologically sustain the harvest of two whales a year for the next five years. ADF&G made comments to the National Marine Fisheries Service (NMFS) on the permit application, but their suggestions that specific conditions be included were denied. Burns pointed out the need for more baseline data on orca populations, and stressed the importance of State control in the taking of whales.

Lanny Cornell, Senior Vice President/ Zoological Director, Sea World, Inc., spoke of his company's history of cooperation with the State, and intention to seek a State permit from the Alaska Department of Fish and Game for the capture of orcas. He objected to the charges against Sea World in SJR 31.

Dr. Robert Elsner, Institute of Marine Science, University of Alaska, Fairbanks, felt the proposed project was a worthy one and that the University of Alaska would be happy to work with the Alaska Department of Fish and Game in overseeing the research and the capture of orcas.

Vivia Boe, Greenpeace, International, related her experience with monitoring Sea World's orca captures in Washington state. She discussed the federal lawsuit against Sea World, and the capture techniques used by Sea World in the past. She urged the resolution be strengthened to ensure the safe and humane treatment of Alaskan orcas.

Richard Osborne, Research Director, Moclips Cetological Society, Friday Harbor, Washington, recommended that research be done with photo identification methods to determine accurate population data before any management decisions on harvesting orcas are made.

Jim Brooks, Deputy Director, National Marine Fisheries Service (NMFS), Alaska Region, testified that the permit contained ample safeguards and the harvest by Sea World would be biologically irrelevant to the Alaskan orca population. Hearings were not held in Alaska because of limited time and money. He said the authority to manage marine mammals, even within 3 miles, lies with NMFS.

Larry Edwards, Alaska Environmental Lobby, spoke in support of SJR 31, and the need for placing additional conditions on the issuance of a permit.

John Howard, Juneau, spoke in support of Sea World's past research efforts, and feels Sea World should be allowed to conduct further research on orcas in Alaska.

The meeting adjourned at 5:33 pm.

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 AS 41.17.043;
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tial reduction of the continuing capability of the land or water to produce renewable resources at their natural or historic levels;

(13) "silviculture" means the art of producing and tending a forest, the application of the knowledge of silvics in the treatment of a forest, and the theory and practice of controlling and managing forest establishment, composition, and growth;

(14) "state forest" means an area which is retained in state ownership in order to

(A) provide a base for sustained yield management of renewable resources; and

(E) permit a variety of beneficial uses;

(15) "sustained yield" means the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of forest land and water without significant impairment of the productivity of the land and water, but does not require that timber be harvested in a non-declining yield basis over a rotation period; and

(16) "timber owner" means a person who owns timber on forest land or who has the rights to timber, but does not own the land itself. (§ 1 ch 108 SLA 1978; am § 88 ch 59 SLA 1982)

Revisor's notes. — In 1983 paragraphs (12) — (16) were reorganized to place the terms defined in alphabetical order.

Effect of amendments. — The 1982

amendment substituted "forestry" for "forest, land, and water management" in paragraph (5).

NOTES TO DECISIONS

The "sustained yield principle" as used in Alas. Const. art. VIII, § 4 accords with the definition set forth in AS 38.04.910(10), and the added language in the definition of "sustained yield" in this section that it "does not require that timber be harvested in a nondeclining yield basis over a rotation period"; and it should be read as permitting timber cutting at a level that cannot be sustained over a forest rotation period only in unusual circumstances. Southeast Alaska Conservation Council, Inc. v. State, Sup. Ct. Op. No. 2662 (File No. 5855), P.2d (1983).

Chapter 20. Parks and Recreational Facilities.

[Re-numbered as AS 41.21.010 — 41.21.990.]

Chapter 21. Parks and Recreation Facilities.

Article

1. Administration (§§ 41.21.010 — 41.21.040)
2. State Parks (§§ 41.21.110 — 41.21.167)
3. Alaska Marine Parks (§§ 41.21.300 — 41.21.306)
4. State Recreation Areas (§§ 41.21.410 — 41.21.490)
5. Wildlife Preserves (§§ 41.21.610 — 41.21.630)
6. Roadside Rests, Beaches (§§ 41.21.800 — 41.21.805)

- 7. Trails, Footpaths and Campsites (§§ 41.21.850 — 41.21.872)
- 8. Miscellaneous Provisions (§§ 41.21.900 — 41.21.918)
- 9. General Provisions (§§ 41.21.950 — 41.21.990)

Article 1. Administration.

Section	Section
10. Purpose	30. Disposition of funds
20. Duties of Department of Natural Resources	40. Division within department
25. Zoning of private land within state parks	

Collateral references. — 59 Am. Jur. 2d, Parks, Squares and Playgrounds, §§ 1 — 15; 63 Am. Jur. 2d, Public Lands, § 17. 81A C.J.S., States, §§ 138, 145 — 150. Statutes relating to establishment or administration of parks as encroachment on right of local self-government, 88 ALR 228.

Sec. 41.21.010. Purpose. It is the purpose of AS 41.21.010 — 41.21.040 to foster the growth and development of a system of parks and recreational facilities and opportunities in the state, for the general health, welfare, education, and enjoyment of its citizens and for the attraction of visitors to the state. (§ 1 ch 158 SLA 1959)

Revisor's notes. -- Formerly AS 41.20.010. Renumbered in 1983.

Sec. 41.21.020. Duties of Department of Natural Resources. The Department of Natural Resources shall

- (1) develop a continuing plan for the conservation and maximum use in the public interest of the scenic, historic, archaeological, scientific, biological, and recreational resources of the state;
- (2) plan for and develop a system of state parks and recreational facilities, to be established as the legislature authorizes and directs;
- (3) acquire by gift, purchase, or transfer from state or federal agencies, or from individuals, corporations, partnerships or associations, land necessary, suitable and proper for roadside, picnic, recreational or park purposes;
- (4) control, develop and maintain state parks and recreational areas;
- (5) provide for the acquisition, care, control, supervision, improvement, development, extension and maintenance of public recreational land and make necessary arrangements, contracts or commitments for the improvement and development of land acquired under AS 41.21.010 — 41.21.040;
- (6) adopt, in accordance with this section and the Administrative Procedure Act (AS 44.62), regulations governing the use and

designating incompatible uses within the boundaries of state park and recreational areas to protect the property and to preserve the peace;

(7) cooperate with the United States and its agencies and local subdivisions of the state to secure the effective supervision, improvement, development, extension, and maintenance of state parks, state monuments, state historical areas, and state recreational areas, and secure agreements or contracts for the purpose of AS 41.21.010 — 41.21.040;

(8) encourage the organization of state public park and recreational activities in the local political subdivisions of the state;

(9) provide for consulting service designed to develop local park and recreation facilities and programs;

(10) provide cleaning-house services for other state agencies concerned with park and recreation matters; and

(11) perform other duties as are prescribed by executive order or by law;

(12) maintain memorials to Alaska veterans located in state parks;

(13) adopt, in accordance with the Administrative Procedure Act (AS 44.62), regulations governing the use of the Chena River State Recreation Area and designating incompatible uses within the boundaries of the Chena River State Recreation Area in accordance with AS 41.21.490. (§ 2 ch 158 SLA 1959; am § 1 ch 233 SLA 1978; am § 3 ch 30 SLA 1981; am §§ 1, 2 ch 78 SLA 1981)

Revisor's notes. — Formerly AS 41.20.020. Renumbered in 1983.

The present second sentence of AS 41.21.490 was originally enacted as part of (13) of this section and was transferred, with appropriate minor word changes in (13) of this section in 1981. Two paragraphs (12) were added by the 1981 amendments. The paragraph added by the second amendment was renumbered as (13).

Crossa references. — For power of the department of military affairs to erect

memorials to veterans, see AS 44.35.030.

Effect of amendments. — The first 1981 amendment added paragraph (12).

The second 1981 amendment made minor word changes in paragraph (6) and added paragraph (13).

Collateral references. — Grant of licenses or special privileges in parks, 18 ALR 1263; 63 ALR 484; 144 ALR 486.

Use to which park property may be devoted; power of legislature or state officers, 18 ALR 1266; 63 ALR 484; 144 ALR 486.

Sec. 41.21.025. Zoning of private land within state parks. (a) The department may adopt, under the Administrative Procedure Act (AS 44.62), zoning regulations governing private property within the boundaries of state parks established under this chapter.

(b) Land patented to or under interim conveyance to a regional or village native corporation under 43 U.S.C. 1601-1628 (P.L. 92-203, Alaska Native Claims Settlement Act) which falls within a state park boundary is subject to the zoning regulations provided for under (a) of this section only if the affected regional or village native corporation consents to or fails to reject the zoning regulations within 60 days from the date they are submitted to the effected corporation.

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11 AAC 12.120. HORSES. Horses and pack stock shall not be ridden, driven, led, or otherwise used in a state park except in an area or on a roadway or trail of the state park designated by the director for the use of horses. (Eff. 1/13/73, Reg. 44)

Authority: AS 41.20.020
AS 41.20.040

(2) the maximum number of people to occupy a facility or area; and

(3) any other provision the director deems necessary to protect the health and welfare of

11 AAC 12.130. PETS. Dogs and other pets, while in a building, campground or other developed area of a state park, shall be on a leash not exceeding nine feet in length at all times. The director may prohibit dogs and other pets from areas or buildings in a state park. Seeing-eye dogs are exempt from prohibitions against pets in a building, campground, or other area of a state park. A dog or other pet running at large in a state park may be destroyed by a state park official. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 03.55.010 AS 41.20.020
AS 03.55.020 AS 41.20.040
AS 18.75.020

11 AAC 12.140. CONSTRUCTION OF STRUCTURES. No dock, cabin, home, building, or other structure may be constructed or maintained on state park lands or waters unless authorized by the director. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.20.020
AS 41.20.040

11 AAC 12.150. CONSTRUCTION OF SIGNS. Construction or display of signs in a state park is prohibited unless authorized by the director. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.20.020
AS 41.20.040

11 AAC 12.160. ASSEMBLY. (a) An assembly of more than 20 people in a state park is prohibited without a permit. A permit may be obtained by applying to the director. Where more than one application for the same period of time is received by the director, a permit shall be issued to the applicant filing the first application.

(b) The permit may provide

(1) restrictions as to facilities or area;

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES

State of Alaska

DIVISION OF PARKS

TO: Neil C. Johannessen
Director

DATE: January 12, 1984

THRU: Skip Harding
Deputy Director

FILE NO: 6210-12-9

FROM: Peter J. Johnson
Superintendent
Chugach/Southwest District

TELEPHONE NO: 279-3413

SUBJECT: Horses in Chugach

On January 11, 1984, I met with the Anchorage Horse Trails and Facilities Committee, which is the primary organization representing the interests of the equestrian community in the Anchorage area. The goal of the meeting was to identify how the use of horses in State Parks could be recognized as a legal recreational pursuit and to come to agreement on which trails in Chugach State Park would be open to horses.

After a lengthy and often heated discussion on why the Division could not simply do away with the current regulation, 11AAC 12.120 HORSES, and open all parks to horses, we knuckled down and proceeded to explore the various options available to open trails in Chugach State Park. Those methods being the formulation of a Division Order under the existing 11AAC 12.120, the application of the revised 11AAC 12.010 LIMITATION ON USE OF PARK LAND AND WATER, when adopted, or the inclusion of Horses in 11AAC 20 when those regulations are promulgated.

Prior to attending the meeting, I consulted the Deputy Director to ascertain which method would best apply to this particular situation. We agreed that due to the length of time required to promulgate Chapter 20 and the uncertainty as to when the proposed 11AAC 12.010 would be in effect, the best direction at this time would be to issue a Division Order opening trails to horses.

I integrated this rationale into the meeting and those in attendance were concerned about the possibility of this Division Order being repealed at a later date. I explained that the likelihood of that occurring was remote, without a similar order or regulation being in place or in the process of being promulgated.

To summarize, the issuance of a Division Order opening trails in Chugach State Park will serve to depolitize the issue and recognize the use of horses as a legal activity on designated trails. The wording of the Division Order (draft attached) will be such that it can be used under the procedure outlined in the proposed 11AAC 12.010 or to be promulgated at a later date in Chapter 20.

PJP/lk

DELIVER TO: Carol Wilso	LOCATION: ANA - CND
FROM: Parks	LOCATION: Anch.
TELEPHONE/TELECOPIER #	TOTAL NUMBER OF PAGES: 3

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS

BILL SHEFFIELD, GOVERNOR

818 WAREHOUSE AVE., SUITE 210
ANCHORAGE, ALASKA 99501
PHONE: (907) 275-2553

January 12, 1984

Division Order No. 55

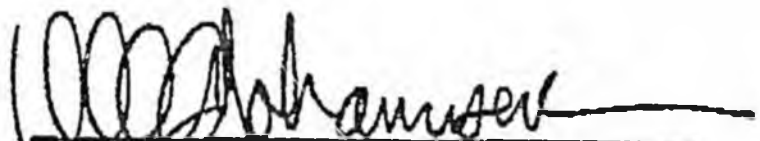
SUBJECT: Use of Horses in Chugach State Park

AUTHORITY: AS 41.21.020
AS 41.21.040
11AAC 12.120

1. All areas of Chugach State Park are open to the use of horses and pack stock with the exception of the following areas:
 - A. Campgrounds, swim beaches and picnic areas;
 - B. The Eagle River Valley from Crow Pass to the Eagle River Visitor Center;
 - C. The Old Johnson Trail from Potter to Indian;
 - D. All trails in the Hillside Trail System (North Fork of Campbell Creek to Rabbit Creek) from April 1 to June 1 annually;
 - E. Designated trails in the Hillside Trail System;
 - 1) Glen Alps access trails to the Powerline;
 - 2) Trails and roads above (southeast of) the gas-line and powerline junction from Nov. 1 to June 1 annually;
 - 3) All trails east of the powerline from Nov. 1 to June 1 annually;
 - 4) The Wolverine Peak Trail from Nov. 1 to June 1 annually;
 - 5) Middle Fork Loop Trail;
 - 6) Flattop Mountain Trail;

Division Order No. 55 (con't)
January 12, 1984
Page 2 of 2

2. Groups consisting of ten or more animals must obtain a Park Use Permit prior to entering the park;
3. Quartering of horses and packstock within 100' of fresh water is prohibited.



Neil C. Schanzen, Director
Division of Parks and Outdoor Recreation

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/27/84

REQUEST

Bill/Resolution No.: CS SB 349
Title: Activities in State
parks

Sponsor: Faiks
Requestor: Resources
Date of Request: _____

FISCAL DETAIL

Agency Affected: Natural Resources
Program Category Affected: _____
Div. of Parks

BRU, Program or Subprogram(s) Affected: _____
Park Management/Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Jim Price Phone: 265-4526
Division: Parks Date: 1/26/84

Approved by Commissioner: William D. Schmidt, Deputy Date: 2/27/84
Agency: Department of Natural Resources

Distribution (by Agency preparing fiscal note):

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12/1/83