

HPB

186

2 of 2

Original sponsors: Szymanski and Clocksin

*rejected*  
BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE  
*by*  
*Committee*

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 186 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Anchorage Coastal Wildlife  
7 Refuge."

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

9 \* Section 1. AS 16.20 is amended by adding a new section to read:

10 Sec. 16.20.031. ANCHORAGE COASTAL WILDLIFE REFUGE. (a) The  
11 following described state-owned land and water is established as the  
12 Anchorage Coastal Wildlife Refuge and shall be managed as a state game  
13 refuge for the protection of waterfowl, shorebirds, salmon, and other  
14 fish and wildlife species, and their habitat and for the use and  
15 enjoyment of the people of the state:

16 (1) Township 13 North, Range 4 West, Seward Meridian

17 Section 20: SE 1/4 seaward of the 20 foot elevation  
18 contour

19 SE 1/4 NE 1/4 seaward of the 20 foot elevation con-  
20 tour

21 Section 29: E 1/2 seaward of the 20 foot elevation  
22 contour

23 SW 1/4 seaward of the 20 foot elevation contour

24 Section 30: SE 1/4 SE 1/4

25 Section 31: All seaward of the 20 foot elevation  
26 contour except NW 1/4 NW 1/4

27 Section 32: All seaward of the 20 foot elevation  
28 contour

29 (2) Township 13 North, Range 5 West, Seward Meridian

1 Section 36: S 1/2

2 S 1/2 N 1/2

3 (3) Township 12 North, Range 4 West, Seward Meridian  
4 Sections 6 - 9: Seaward of the 20 foot elevation  
5 contour

6 Section 15: NW 1/4 seaward of the 20 foot elevation  
7 contour

8 SW 1/4 NE 1/4 seaward of the 20 foot elevation  
9 contour

10 Government Lot 5 and the remainder of the W 1/2 SE  
11 1/4, all

12 SW 1/4

13 Section 16: Seaward of the 20 foot elevation contour  
14 Sections 17 - 22

15 Section 23: Government Lot 1 and the remainder of the  
16 SW 1/4, all seaward of the 20 foot elevation contour  
17 Government Lot 2 and the remainder of the S 1/2 NW  
18 1/4, all seaward of the 20 foot elevation contour  
19 Government Lots 3 and 4, and the remainder of the SE  
20 1/4, all seaward of the 20 foot elevation contour

21 Section 24: Tract A, Shorecrest Subdivision (Plat No.  
22 81-68, Anchorage Recording District)

23 Section 25: Government Lots 1 and 2, and the remainder  
24 of the W 1/2, all

25 Tract A, Johns Park Estates, and the remainder of the  
26 NE 1/4, excluding Skyway Park Estates, Addition No. 1  
27 all seaward of the 20 foot elevation contour Govern-  
28 ment Lots 3 and 4, and the remainder of the SE 1/4,  
29 all

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Sections 26 - 36

(4) Township 12 North, Range 5 West, Seward Meridian

Sections 1 - 2

Sections 11 - 14

Sections 23 - 26

Sections 35 - 36

(5) To Township 12 North, Range 3 West, Seward Meridian

Section 9: That portion of the SW 1/4 southwesterly of the Alaska Railroad right-of-way and southerly of Oceanview Subdivision, Addition No. 6

Section 30: That portion of Tract A, Johns Park Estates, seaward of the 20 foot elevation contour Government Lot 2 and that portion of the SE 1/4 NW 1/4 southwesterly of Oceanview West Subdivision, Addition No. 1

Government Lots 3 and 4 and the remainder of the SW 1/4, all

That portion of the SW 1/4 NE 1/4 and the SE 1/4 southwesterly of Oceanview Subdivision, Addition No. 4 and Addition No. 6

Section 31

Section 32: All lands southwesterly of the Alaska Railroad right-of-way

Section 33: All lands westerly of the Alaska Railroad right-of-way

(6) Township 11 North, Range 3 West, Seward Meridian

Section 3: Government Lot 5

Section 4: That portion southwesterly of the Old Seward Highway right-of-way and The Landings

1                   Subdivision which is northeasterly of the New Seward  
2                   Highway right-of-way

3                   That portion southwesterly of the Alaska Railroad  
4                   right-of-way

5                   Sections 5 - 8

6                   Section 9: That portion southwesterly of the Alaska  
7                   Railroad right-of-way

8                   That portion northeasterly of the New Seward Highway  
9                   right-of-way

10                  Section 10: That portion westerly of the Old Seward  
11                  Highway right-of-way which is northeasterly of  
12                  the New Seward Highway right-of-way

13                  That portion southwesterly of the Alaska Railroad  
14                  right-of-way

15                  (7) Township 11 North, Range 4 West, Seward Meridian

16                  Sections 1 - 4

17                  Sections 10 - 12

18                  (b) Except as provided in (d) of this section, the Department of  
19                  Fish and Game and the Department of Natural Resources shall exercise  
20                  their respective authorities over the Anchorage Coastal Wildlife  
21                  Refuge consistent with a management plan prepared by the Department of  
22                  Fish and Game under AS 16.20.040 - 16.20.060.

23                  (c) A management plan prepared under AS 16.20.040 - 16.20.060  
24                  shall assure continued surface access to Fire Island and recommend a  
25                  corridor for constructed access and utilities between Fire Island and  
26                  the Anchorage mainland.

27                  (d) Land owned by the Municipality of Anchorage that lies within  
28                  the boundary of the Anchorage Coastal Wildlife Refuge described in (a)  
29                  of this section may be included in the Anchorage Coastal Wildlife

1 Refuge. An agreement between the Department of Fish and Game and the  
2 Municipality of Anchorage for the management of the land within the  
3 Anchorage Coastal Wildlife Refuge that is owned by the Municipality of  
4 Anchorage shall be approved by the Municipality of Anchorage and by  
5 the Department of Fish and Game.

6 (e) The state or the Municipality of Anchorage may not acquire  
7 privately owned land within the Anchorage Coastal Wildlife Refuge  
8 described in (a) of this section by eminent domain for inclusion  
9 within the Anchorage Coastal Wildlife Refuge. The Department of Fish  
10 and Game or the Municipality of Anchorage may acquire privately owned  
11 land within the Anchorage Coastal Wildlife Refuge by purchase, ex-  
12 change, or otherwise except by eminent domain.

13 (f) The land and water areas of the Anchorage Coastal Wildlife  
14 Refuge are closed to mineral entry under AS 38.05.185 - 38.05.275.

15 \* Sec. 2. The initial management plan prepared under AS 16.20.031(b) as  
16 enacted in sec. 1 of this Act shall be completed within one year of the  
17 effective date of this Act. The initial management plan shall be submitted  
18 to the legislature and may not take effect until approved by Act of the  
19 legislature.

20 \* Sec. 3. AS 16.20.030(b) is repealed.  
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29

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

S CRA 1-30-86 3:40pm



Official Business

# Alaska State Legislature

## Senate

### Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

February 28, 1986

To: Community & Regional Affairs Committee

From: Senator Edna DeVries, Chair

Subj: Opposition/Support for HB 186

Committee staff included the attached letter from Mr. John Hendrickson in your bill packets when HB 186 was heard January 30, with a typed note at the bottom referencing a phone call from an officer of the Alaska Waterfowl Association. The letter has now been returned to staff with additional information written on the bottom from Mr. Hendrickson.

I wanted you to have the complete information received by this office on this matter.

ya

Senator Coghill  
Senator Ferguson  
Senator Vic Fischer  
Senator Sturgulewski

atch

ALASKA WATERFOWL ASSOCIATION

3105A LAKESHORE DRIVE, SUITE 102  
ANCHORAGE, ALASKA 99503  
TEL. (907) 243-3235

FEB 11 1986

*T. Fink  
279-2522*

January 14, 1986

RECEIVED

FEB 05 1986

John Hendrickson, Atty.

Senator Edna DeVries, Chair  
Senate Community & Regional Affairs  
Box V  
Juneau, Alaska 99811

RE: HB 186  
Anchorage Coastal  
Wildlife Refuge

Dear Senator DeVries:

Our organization of over 200 people support the Anchorage Coastal Wildlife Refuge. We would urge you to report it out of your committee with a do pass. If there are any problems with this bill please let me know by return mail. We believe it is time to finish this worthwhile task and proceed to the next one. Hopefully our great grandchildren will hear the sounds of waterfowl 100 years in the future.

Very truly yours,

*John W. Hendrickson*  
John W. Hendrickson  
President

*Sent to*

*1/31/86  
by GBAIM*

cc: Mayor Tony Knowles  
Senator Vic Fischer  
Representative Szymanski

JWH:kmf

Note: Telephone call received 1/29/86 from Vice President of Alaska Waterfowl Association, Tom Fink, saying that the President of the Association did not bring the matter of HB 186 before the membership; and that the President therefore does not speak for the Association. Tom Fink expressed his personal opposition to the bill.

C&RA Staff

*Even offered*

*Tom Fink is the only member or officer of AWA that I know of that opposes this bill. He has known of our support for HB 186 for a year or perhaps more. our support? This was announced*

# ALASKA WATERFOWL ASSOCIATION

3105A LAKESHORE DRIVE, SUITE 102  
ANCHORAGE, ALASKA 99503  
TEL. (907) 243-3235

January 14, 1986

+471:075  
Call + give  
to Yvonne


Senator Edna DeVries, Chair  
Senate Community & Regional Affairs  
Box V  
Juneau, Alaska 99811

RE: HB 186  
Anchorage Coastal  
Wildlife Refuge

Dear Senator DeVries:

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Very truly yours,

  
John W. Hendrickson  
President

cc: Mayor Tony Knowles  
Senator Vic Fischer  
Representative Syzmanski

JWH:kmf

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C&RA Staff

Rabbit Creek Community Council  
6410 Switzerland Drive  
Anchorage, Alaska 99516

FEB 18 1986

February 14, 1986

345-1572

Senator Edna Devries  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Dear Senator Devries:

As you know, the Rabbit Creek Community Council strongly supports H. B. 186. We continue to be concerned that this bill has not received timely and affirmative action by the Senate Community and Regional Affairs Committee that you chair.

In order to determine the specific reasons why no action has been taken on H. B. 186 we contacted your office last month. Although we were given assurances by you that there are no substantive problems with the bill we note that the bill still resides in committee. To make the record clear, the RCCC supports the bill as initially written. We wish to cooperate and assist you and your staff in facilitating positive action on H. B. 186. That is why we support the teleconference that you requested for our March meeting. Given that you support H. B. 186 and we support H. B. 186 we see absolutely no benefit in delaying committee action on the bill until the teleconference is complete.

We hope that by the time we speak with you during our March meeting you will be able to share positive news about Senate action on H. B. 186.

Sincerely yours,

*James F. Sizemore*

James F. Sizemore  
President, Rabbit Creek  
Community Council

cc: Sen Ferguson  
Sen Faiks  
Sen Coghill  
Sen V. Fisher  
Sen Sturgeleuski  
Rep Reiger  
Rep Szymanski

*Talked to Mr Sizemore  
3/4/86  
mix-up w/new officers on  
meeting  
also sent him copy  
of CS*

*we didn't  
request  
it*

Brot to d/c  
by Ed Grasser  
2/19/86

HB 186

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF FISH AND GAME**

**OFFICE OF THE COMMISSIONER**

P.O. BOX 3-2000  
JUNEAU, ALASKA 99802  
PHONE: 907 / 465-4100

February 3, 1986

215

The Honorable Mike Szymanski  
Alaska State Legislature  
P. O. Box V  
Juneau, AK 99811

Dear Representative Szymanski:

As follow-up to your conversation with Norman Cohen, Director of Habitat Division, regarding preparation of a Potter Point State Game Refuge management plan, discussion with Lew Pamplin, Director of Game Division, has confirmed that a Potter Point State Game Refuge operational management plan was completed in June 1985. To date, we have completed or are continuing efforts on tasks 2, 3, 5, 6, 7, 8, 9, 11, 12, and 13. Enclosed please find a copy of the final draft of the plan. As noted on page 1 of the plan, the tasks identified therein were presented to the Potter Marsh Task Force for their review. As was discussed with you Tuesday, this plan and associated topics, such as the proposed additions to the boardwalk as well as the access issues, will be the subject of a task force meeting to be held in the near future.

As Norman indicated, once the Anchorage Coastal Wildlife Refuge bill is enacted, the department will revise this draft plan in our preparation of an Anchorage Coastal Wildlife Refuge management plan. The Anchorage Coastal plan will describe management goals and objectives for the refuge and its resources and will present policies to be used in deciding what types of activities are compatible with the protection of fish and wildlife, their habitats and public use of the refuge. The plan will guide management of the area for the next ten years. Among other issues, the plan will address access to and through the refuge, possible habitat enhancement projects, and wildlife viewing opportunities.

As mentioned in my February 26, 1985, letter to you, given the department's current level of funding for refuge planning, it is difficult to guarantee that a new refuge plan will be completed within one year of the effective date of

The Honorable Mike Szymanski

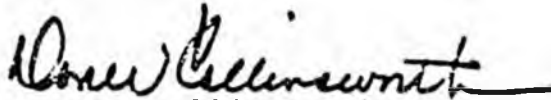
-2-

February 3, 1986

the Anchorage Coastal Wildlife Refuge Act. If, as proposed in the Governor's budget, we are able to enhance our department's refuge planning process in FY 87, we will have the necessary staff to begin preparation of an Anchorage Coastal Wildlife Refuge Plan in FY 87.

Thank you for your continuing interest in Potter Marsh and our department's refuge planning process. If I can be of further assistance do not hesitate to call.

Sincerely,



Don W. Collinsworth  
Commissioner

Enclosure

cc: Norman Cohen  
Lew Pamplin

POTTER POINT STATE GAME REFUGE  
OPERATIONAL MANAGEMENT PLAN

June 1985

Prepared by the  
Divisions of Game and Habitat

Alaska Department of Fish and Game  
333 Raspberry Road  
Anchorage, AK 99502

Don W. Collinsworth, Commissioner

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## INTRODUCTION

The purpose of the Potter Point State Game Refuge Operational Management Plan is to provide a comprehensive outline of the projects and activities presently underway and/or envisioned within the next five years for Potter Point State Game Refuge. This plan outlines on-the-ground implementation of the Strategic Management Plan.

Potter Point State Game Refuge was established in 1971 for the protection of natural habitat and game populations, especially waterfowl. A Strategic Management Plan which identified the department's goals and objectives was completed in 1981. A public workshop held in March of 1983 identified issues of concern to the public. Subsequently, the Strategic Management Plan was revised by the Potter Marsh Task Force.

The tasks presented in the Operational Management Plan were discussed and reviewed by the Potter Marsh Task Force. The plan is a working document which will be updated and expanded upon as tasks are developed and completed.

## GOALS

Projects and activities which the Department undertakes in Potter Point State Game Refuge will promote the following goals in accordance with the approved Strategic Management Plan:

1. MANAGE THE REFUGE FOR THE PROTECTION AND PRESERVATION OF THE NATURAL HABITAT AND FISH AND WILDLIFE POPULATIONS.
2. MAINTAIN AND ENHANCE PUBLIC COMMUNICATIONS REGARDING POTTER POINT STATE GAME REFUGE.
3. MAINTAIN AND ENCOURAGE A VARIETY OF RECREATIONAL, EDUCATION, AND SCIENTIFIC USES OF THE REFUGE FISH AND WILDLIFE RESOURCES.

## FISH AND WILDLIFE POPULATIONS AND HABITAT

A program of inventory and research aimed at determining diversity and abundance of major fish and wildlife populations will provide the basis on which refuge management decisions will be made. To date, a synthesis of available fish and wildlife information has been prepared. (Potter Marsh Strategic Plan Resource Inventory, Appendix A, 1982).

TASK #1: DIVERSITY AND ABUNDANCE OF WILDLIFE General distribution information is fairly well documented. However, with the possible exception of Potter Marsh, comparatively little site-specific information is available on the use of the refuge by fish and wildlife. Therefore, Department efforts will focus on documenting the diversity, abundance, and habitat use of major wildlife species in specific sections of the refuge. Transects will be selected and monitored on a monthly basis to determine diversity and abundance, including 1) approximate numbers of waterfowl and shorebird species utilizing the refuge, 2) numbers and location of breeding pairs of ducks and geese throughout the refuge, and 3) abundance and distribution of mammalian species utilizing the refuge. The study area will encompass Potter Point State Game Refuge between Potter Point and Pt. Campbell between mean higher high water (MHHW) and the toe of the bluff excluding Potter Marsh.

Methods: Part One. Belt transects, running perpendicular to the tideline and extending to the alder fringe, will be established at one mile intervals or closer in areas of diverse habitat types, between the New Seward Highway and Pt. Woronzof. Data collected will include plant species present, the estimated percent cover of each species, and the surface soil type. Each survey of these transects will focus on observations of all avian species present, their relative abundance, and habitat use. Vegetation information will be collected for each transect. Wildlife surveys will be conducted once a month throughout the spring/summer months. Data will be gathered once during fall and winter. A special effort will be made to identify nesting areas within these transects. Observations of mammals associated with the wetlands will be made on an opportunistic basis concurrent with avian surveys. Information on the effects of weather, tides, and disturbance to birds will also be recorded.

Part Two. A breeding pair survey of the refuge will be conducted between the New Seward Highway and Point Woronzof on foot to locate and record nesting areas. Breeding pair information will be recorded by species

and correlated to habitat type. The survey will be conducted in May and the information will be mapped.

Part Three. To further document mammal use of Potter Point State Game Refuge, a mammal sighting report card has been prepared and distributed to residents who live adjacent to the refuge as well as wildlife watchers who regularly visit the refuge. The report cards will record location (where the animal was sighted); activity (what the animal was doing); direction of travel (was the animal moving down the bluff, along the bluff, or out on the tidflats); habitat (what kind of vegetation/water was the animal in); interactions (was the animal interacting with any other animal); and other associated information (sex, age, and condition of animal). We are asking these sighting report cards to be returned to the department when full, or at six month intervals (whichever comes first).

Results: This information will be written up in an annual report accompanied by appropriate mapped information.

TASK #2: DIVERSITY AND ABUNDANCE OF FISH A program to better document diversity and abundance of fish populations within the refuge will be undertaken. Timing and use patterns (i.e., spawning) of adult salmon in Rabbit Creek will be monitored as well as distribution and abundance of salmon fry and smolt within Rabbit Creek/Potter Marsh throughout the year. Diversity and abundance of other species of fish utilizing Potter Marsh/Rabbit Creek will also be monitored.

Study Area: The study area will encompass that portion of the refuge known as Potter Marsh.

Methodology: Diversity and abundance of adult salmon will be established by spring through fall river bank observations between the New Seward Highway culverts upstream to a point approximately three miles above the Old Seward Highway. Timing of arrival and spawning will also be accomplished by stream bank observation.

Abundance and distribution of fry, smolt, and other species utilizing Rabbit Creek/Potter Marsh waters will be accomplished via minnow trap and fyke net sampling. Minnow traps will be utilized twice monthly during the ice free months and twice during the winter months. Fyke nets will be used once each spring and fall.

TASK #3: INSTREAM FLOW RESERVATION An instream flow reservation for Rabbit Creek, Little Rabbit Creek, and Little Survival Creek will be prepared and submitted to

Department of Natural Resources. The instream flow applications will be justified with information collected by USGS and DGGS during 1983-1984 hydrological investigations of Potter Marsh, Rabbit Creek, Little Rabbit Creek, and Little Survival Creek, and studies conducted by ADF&G, USFWS, and Woodward Clyde Consultants July through September 1983. Methods used to determine instream flow required to maintain fish and wildlife populations in Potter Marsh will include stream discharge information, stream hydraulic characteristics and habitat requirements of fish and wildlife.

## MANAGEMENT OF THE PHYSICAL ENVIRONMENT

TASK #4: WATER QUALITY The Department will establish a program for monitoring the physical parameters which are basic indicators of the environmental health of the refuge. This will include periodic sampling of water quality within Potter Marsh and annual sampling of both fresh and marine waters within the refuge.

The USGS has recently collected water samples at the gaging stations located at the Rabbit Creek outlet to Potter Marsh and at Rabbit Creek and Little Rabbit Creek just above the marsh. These samples were collected monthly and were analyzed for major dissolved chemical constituents, nutrients, selected trace metals, and suspended sediment. These data will provide a basis from which to measure any significant changes in the water quality of Potter Marsh. Similar base line data needs to be collected for Little Survival Creek.

TASK #5: LEAD SHOT INGESTION The Department will update its data on the extent of lead shot ingestion and tissue assimilation by waterfowl which are taken on the refuge during hunting season. Although lead poisoning was previously determined to not be a biological problem on Potter Point State Game Refuge, new criteria have been implemented and a re-evaluation with standardized techniques will be done.

TASK #6: BOUNDARY SURVEY AND ACQUISITION OF PRIVATE LANDS The landward boundaries of the refuge will be surveyed as funding permits, beginning at the southern end of refuge. A prioritized listing of zones to be surveyed consists of the following: Potter Creek to the Rabbit Creek rifle range; the rifle range to a point approximately one-half mile south of the end of Klatt Road; this same location to a point two miles north of Campbell Creek; and two miles north of Campbell Creek to Point Campbell.

There remains 230.6 acres of privately owned wetlands within the boundaries of the refuge. A purchase priority indicating the last known owners and acreage is: German Club (5.5), Bayshore West (60), Thomas Carey (41.9), R.J. Rhoces (24), Ethyl Myzer (17), Robert Huff (8.6), Walter Hickel (17), Jack White (55), and Gordon Wold (2.5).

## PUBLIC INFORMATION

TASK #7: INTERPRETIVE SIGNS At least six wildlife interpretive signs will be placed on the boardwalk. Information signs will be erected at Potter Marsh parking areas to inform the public of refuge regulations and wildlife values, including prohibitions against walking in the marsh (during spring, summer, and fall) and feeding wildlife.

TASK #8: PAMPHLETS The Potter Marsh pamphlet will be made available at the Department of Fish and Game Regional Office. It will be reprinted as necessary. Regulations pertaining to the refuge and information about permits required for activities conducted in the refuge will be made available at the Department of Fish and Game Regional Office as well.

TASK #9: NEWS RELEASES News releases will be used to provide information regarding ongoing and future projects and activities affecting the refuge including: 1) wildlife week, 2) status of refuge studies (e.g., hydrology, water quality, wildlife distribution and abundance), 3) rifle range schedules and activities, 4) hunting regulations, and 5) the completion of a management plan.

PUBLIC INVOLVEMENT

TASK #10: CITIZEN'S ADVISORY COMMITTEE The Department will establish a citizen's advisory committee to advise the Department on issues relating to the protection and management of the refuge. The committee will be composed of conservation interests, adjacent community councils, hunting interests and development interests.

The committee will meet at least three times per year. Appropriate organizations will be contacted and requested to nominate an individual for committee membership.

## PUBLIC USE AND ACCESS

TASK #11: POTTER MARSH BULLOOTS The two paved turnouts at the south end and mid-marsh will be curbed and the edges revegetated as funding allows. The two existing gravel turnouts adjacent to Rabbit Creek along the Seward Highway will be upgraded for wildlife viewer use. Parking will eventually be prohibited on turnouts at Rabbit Creek and they will be reserved solely for viewer use when a northern parking area is constructed.

TASK #12: UPGRADE OF NORTHERN POTTER MARSH VIEWING COMPLEX The northern viewing complex is planned for completion by late summer of 1987. This complex will include: construction of an access road from the New Seward Highway to a new parking pad, including paving and curbing; revegetation of the road and pad shoulders; an elevated wooden walkway from the northern parking area to the Rabbit Creek viewing area, where it will connect with the recently completed boardwalk; and a viewing tower near Rabbit Creek. As plans and specifications are prepared for this project, they will be reviewed by the Citizen's Advisory Committee.

TASK #13: RABBIT CREEK RIFLE RANGE The Rabbit Creek Rifle Range will continue to be maintained and operated for public use. Upgrading of the facility will be accomplished as funding allows including shooting sheds with sound baffling, a field archery/hunter safety course, and indoor shooting facility.

TASK #14: ATV PROBLEM The department will work with adjacent landowners, the Citizen's Advisory Committee, and the Municipality of Anchorage, to eliminate ATV use on the refuge including construction of access barriers at Oceanview Bluff Park.



Official Business

# Alaska State Legislature

House of Representatives

Representative Mike Szymanski

SR-A-Box 1304B  
Anchorage, Alaska 99502  
Phone (907) 549-3373

While in Session:  
Pouch V  
State Capitol  
Juneau, Alaska 99811

1986 FEB 18 10 50 AM

*copy sent to  
Bradley 2/28/86*

February 18, 1986

TO: Senator Edna DeVries  
Chairman, Senate C & RA committee

FROM: *Mike Szymanski*  
Representative Mike Szymanski

SUBJECT: HB 186

I understand from your staff that you have not yet received the legal description of the Rabbit Creek Rifle Range.

Therefore, to expedite matters, I thought I would provide the information to you directly, as obtained from the Department of Fish and Game:

LEGAL DESCRIPTION OF RABBIT CREEK RIFLE RANGE PROPERTY

Government Lot 4, located in Section 32 and Government Lots 206, 236, and 237, located in Section 33, all in Township 12N, Range 3W, Seward Meridian.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 24, 1986

SUBJECT: Anchorage Coastal Wildlife Refuge  
(SCS CSHB 186(C&RA))

TO: Senator Edna DeVries, Chair  
Senate Community and REgional Affairs  
Committee

FROM: Tamara Brandt Cook *TBC*  
Director  
Division of Legal Services

Thank you for alerting me to the problem you have had with SCS CSHB 186(C&RA)) due to the failure of an attorney in this division to spot a potential constitutional problem with the bill while it was in your committee. While we try to avoid constitutional problems in drafting bills and to discover problems that may exist as rapidly as possible, mistakes occur. We can only try to rectify these mistakes as soon as we discover them or they are brought to our attention.

Rest assured, however, that any legal problem that may exist with a bill referred to your committee of which we become aware will be brought to your attention. We will try to discover these problems in as timely a fashion as possible, and to suggest possible remedies for consideration by your committee.

TBC:mkr  
m3/071

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907.465.3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 24, 1986

SUBJECT: Advice on constitutional problems  
(Sec. 2, SCS CSHB 186 (C&RA))

TO: Senator Edna DeVries

FROM: Richard A. Bradley *RAB*  
Legislative Counsel

I note your recent memorandum concerning advice that I furnished to Representative Szymanski relative to the above bill.

The memorandum to Representative Szymanski was discussed with Tamara Cook before it left this office.

As you know, we acknowledge our obligation to advise members on problems with bills that they have requested. As the memorandum to Mr. Szymanski stated in its second paragraph, I regret that the point was not noted earlier and that you were not advised. I do think that it is better to acknowledge discovered error than it is to adhere to earlier positions, regardless of their value. And I regret the inconvenience this caused you.

RAB:mkr  
m3/070

*Copy to C&RA  
Committee Members  
2/24/86*

# Alaska State Legislature

## Senate

### Committee on Community and Regional Affairs



Official Business

Senator Edna DeVries, Chairman

Members

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

To: Tam Cook  
Legal Services

From: Senator Edna DeVries, Chair  
Senate Community & Regional Affairs Committee

Subj: Legal Opinions, HB 186

At my request Legal Services prepared a committee substitute for the above referenced bill. It was delivered to my office on May 11, 1985. The original substitute bill cover has the name "Bradley" as the drafter.

A hearing was held by my committee on HB 186 on January 30, 1986. Discussion was mainly on the merits of the proposed committee substitute. A key issue raised in opposition to the proposed substitute bill was the potential constitutional "problem" resulting from the last sentence of Section 2., Page 5, lines 17-19.

A memorandum in support of the constitutional question being raised by the proposed committee substitute was presented to me at the January 30 hearing. The memorandum was written by the same attorney who had drafted the CS, Richard A. Bradley.

I wanted you to be aware of this in case this inadvertence had not come to your attention. I would appreciate being advised if, and when, I request bill language that raises constitutional questions. If I have such information prior to presenting legislation for discussion, I will be better prepared to make decisions concerning the bill.

cc: Senator Coghill  
Senator Ferguson  
Senator Sturgulewski  
Senator Vic Fischer  
Representative Mike Szymanski

atchs

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
BUREAU ALASKA STREET  
907 465 2522

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 30, 1986

SUBJECT: Anchorage Coastal Wildlife Refuge  
(Sec. 2, SCS CSHB 186(C&RA))

TO: Representative Mike Szymanski

FROM: Richard A. Bradley <sup>B</sup>  
Legislative Counsel

You have requested our comments on the the implications of the second sentence of sec. 2 of SCS CSHB 186(C&RA). The language provides that "The initial management plan shall be submitted to the legislature and may not take effect until approved by Act of the legislature."

While we did not advise the Senate C&RA Committee that we had any reservations about the language when it was submitted to that committee (and we regret that fact), on reconsideration we agree that the language raises constitutional questions.

In recent years, there have been Alaska Supreme Court opinions (A.L.I.V.E.) and then subsequently U.S. Supreme Court opinions (Chadha) that declared the so-called legislative veto unconstitutional. The premise of these opinion, somewhat oversimplified, is that it is the legislative role to adopt legislation and it is the executive role to veto legislation (if appropriate). When the legislature alters its role and seeks to cast a "veto" over executive action, it violates the separation of powers doctrine as found in the Alaska Constitution.

When the legislature seeks to prevent executive action from being implemented until it acts, it is, under this view, casting a veto over executive action and the effort violates the separation of powers doctrine.

We believe, however, that the U.S. Supreme Court's opinion in Chadha suggested that it was altogether appropriate for

Representative Mike Szymanski  
Page 2  
January 30, 1986

the legislature to enact legislation that required the executive to propose action and then wait -- before the proposed executive action takes effect.

Using that concept in this case, in our view it would have been appropriate for the second sentence of Sec. 2 of SCS CSHB 186(C&RA) to provide: "The initial management plan shall be submitted to the legislature and takes effect for 30 days after the date of its submission unless disapproved by act of the legislature."

If the legislature uses that period of time to enact new legislation, then the legislative role is properly exercised under the constitution.

If I may be of further assistance, please advise.

RAB:mkr  
M2:111

BILL SHEFFIELD, GOVERNOR

REPLY TO:

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

February 4, 1986

The Honorable Mike Szymanski  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600



Dear Representative Szymanski:

Your aide, Crystal Smith, called today and asked for a brief letter reflecting my testimony before the Senate Community and Regional Affairs Committee on proposed SCS CSHB 186(C&RA). Specifically, I testified on what I understand is the only difference between that proposed committee substitute and SCS CSHB 186(Res), the sentence which begins on page 5, line 18: "The initial management plan shall be submitted to the legislature and may not take effect until approved by Act of the legislature."

The substance of my testimony was that such a provision would be unconstitutional under the separation of powers doctrine. In cases such as State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980), and Immigration and Naturalization Service v. Chadah, 462 U.S. 919 (1983), the courts recognize that the legislative branch of government may act to invalidate certain actions taken by the executive branch. However, in doing so, the legislative branch must follow the constitutional provisions governing its actions. That is, it must affirmatively pass an Act, which then is subject to veto by the chief executive (the governor or the president) with an opportunity for legislative override of such a veto.

The quoted sentence from proposed SCS CSHB 186(C&RA) would violate this aspect of the separation of powers doctrine because legislative inaction, as opposed to positive action by the legislature, would invalidate the actions of the executive branch in developing the management plan.

As an alternative, I suggested that the committee consider a requirement that the executive branch periodically review the management plan, perhaps with a requirement for periodic public hearings to ensure that the management plan keeps pace with the desires of the public.

185

The Honorable Mike Szymanski

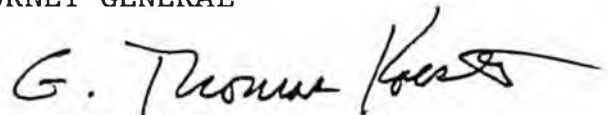
February 4, 1986  
Page 2

We hope this brief summary of my testimony before the committee is sufficient. If I can answer further questions, please contact me at your convenience.

Sincerely,

HAROLD M. BROWN  
ATTORNEY GENERAL

By:

  
G. Thomas Koester  
Assistant Attorney General

GTK:d1m

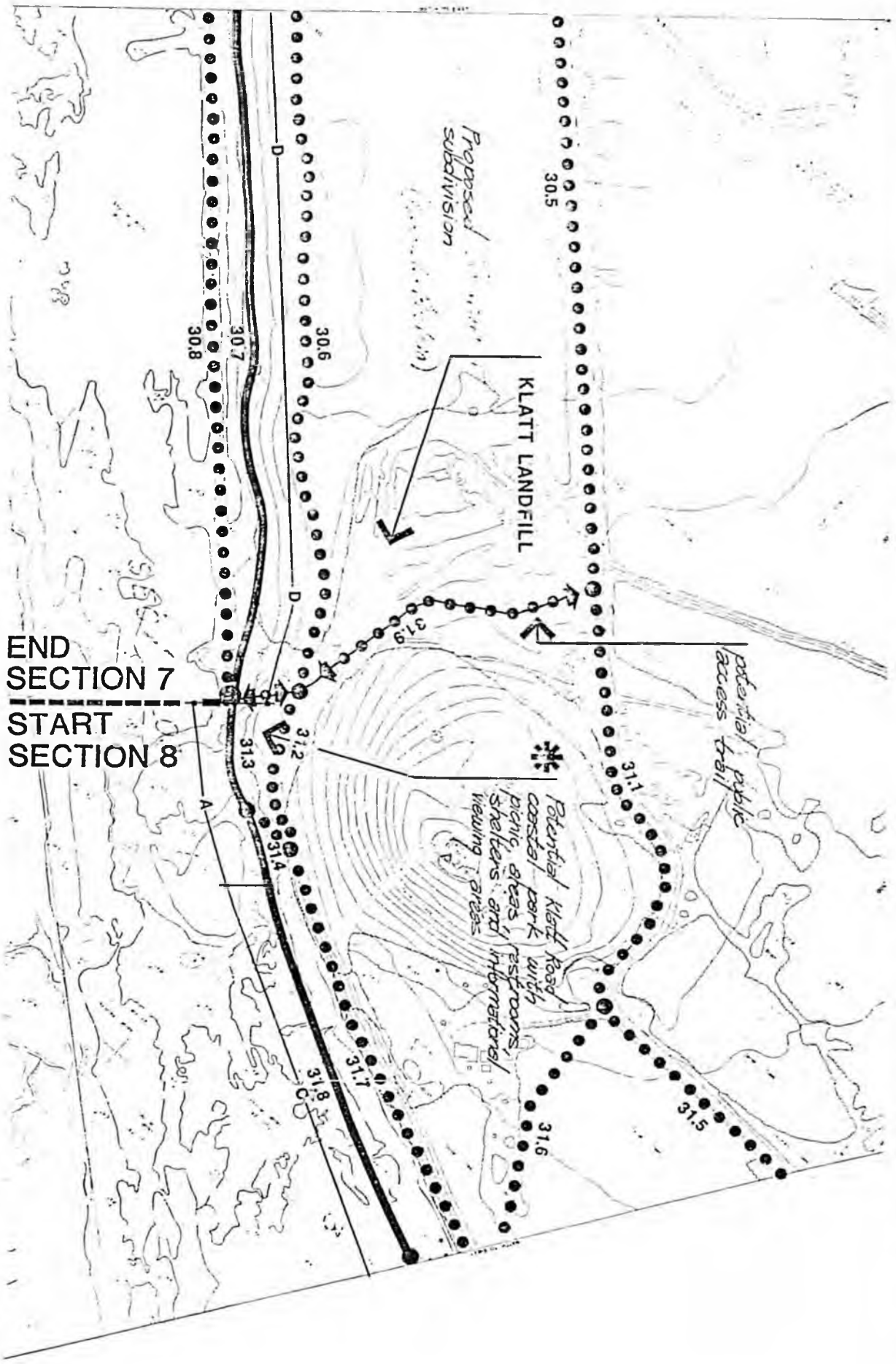
cc: Senator Edna B. DeVries

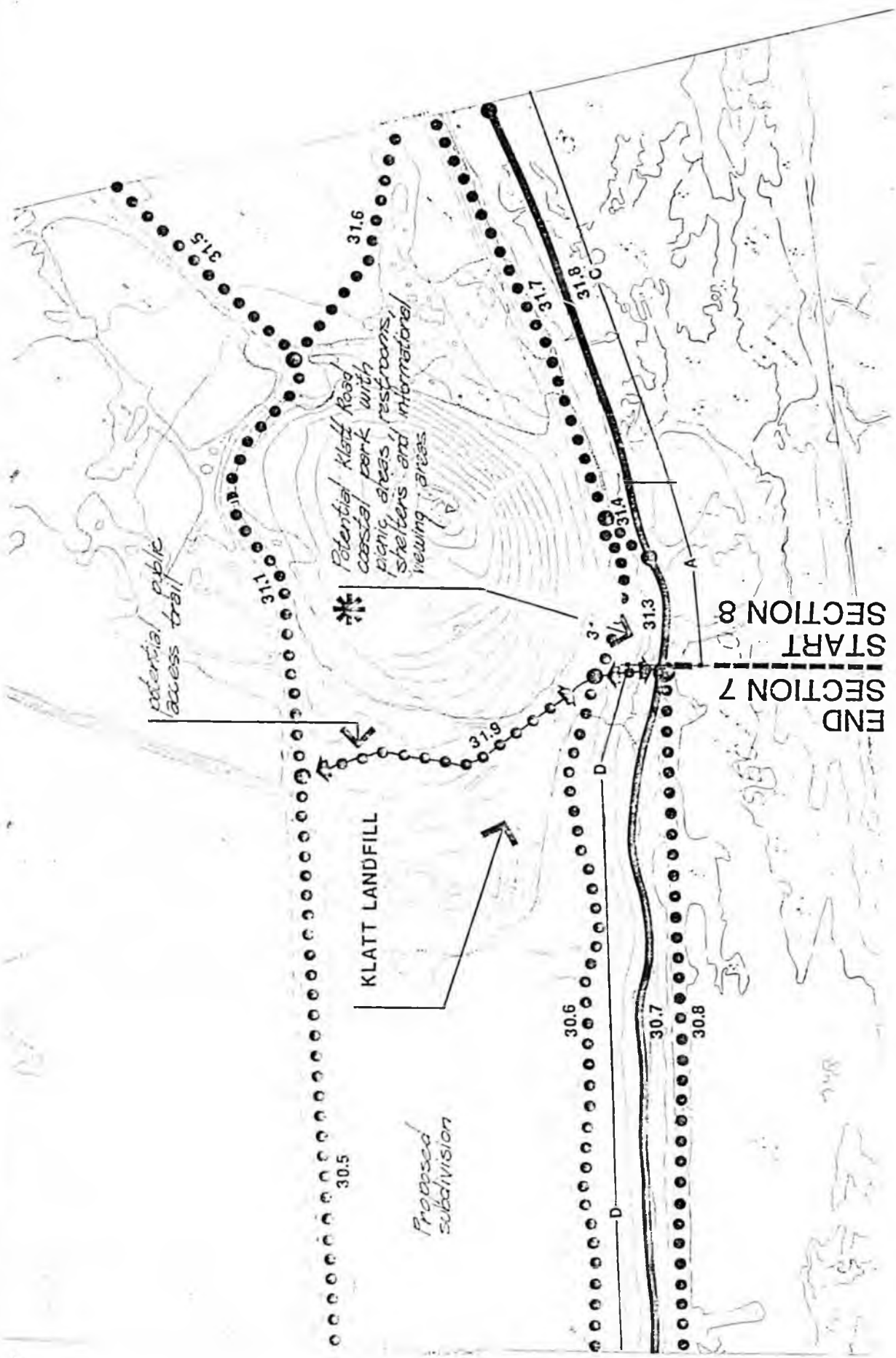
Norm Cohen, Director  
Division of Habitat, ADF&G

Ned Farquhar  
Special Assistant, DNR

Jim Ayers  
Legislative Assistant  
Office of the Governor







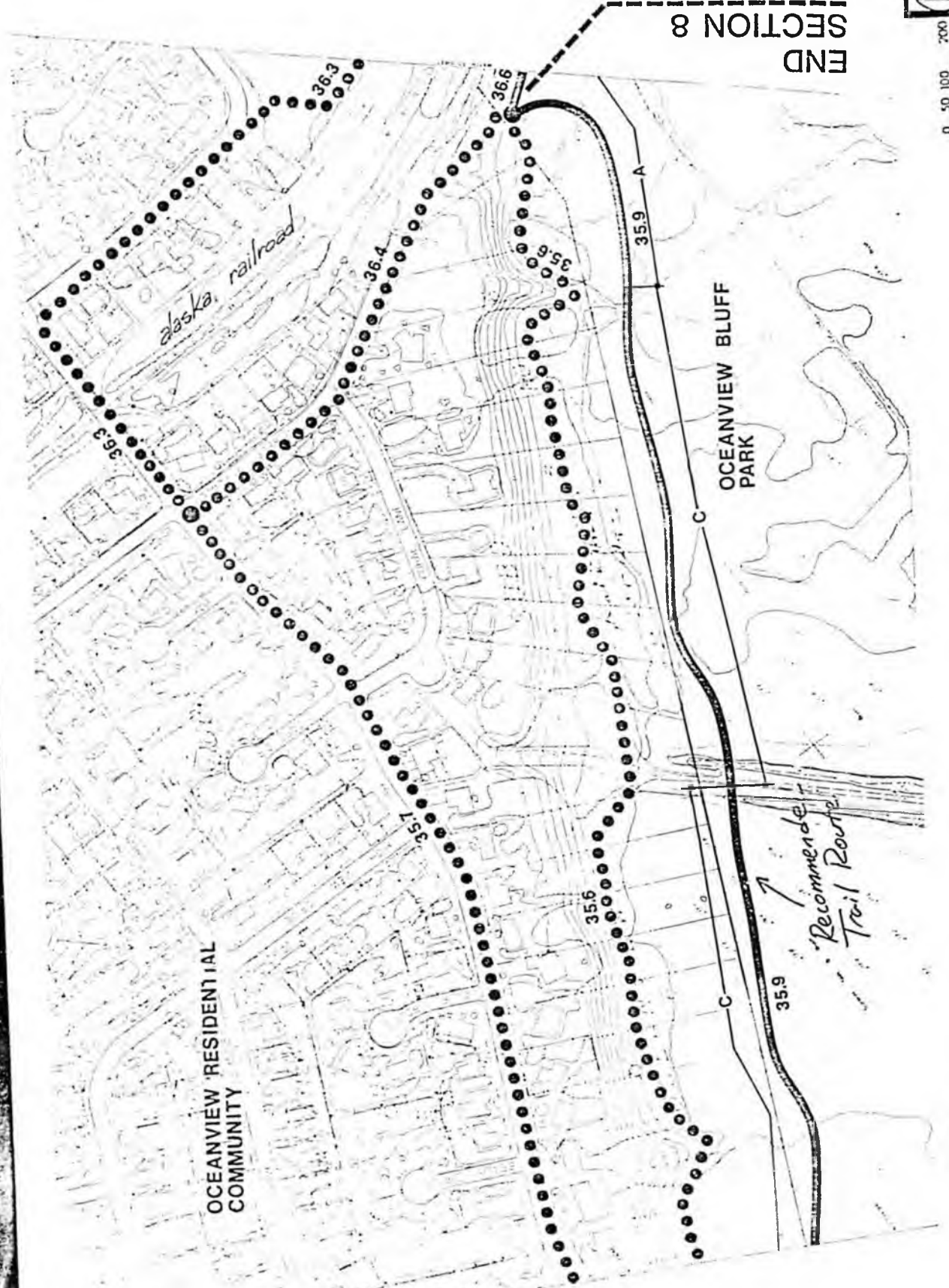
END SECTION 7  
 START SECTION 8

31

PLAN SHEET



END  
SECTION 8  
START  
SECTION 9



OCEANVIEW RESIDENTIAL  
COMMUNITY

*alaska railroad*

OCEANVIEW BLUFF  
PARK

*Recommended  
Trail Route*



Official Business

# Alaska State Legislature

## Senate

### Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

February 12, 1986

To: Representative Mike Szymanski

From: Senator Edna DeVries, Chair *Edna*  
Community & Regional Affairs Committee

Subj: HB 186

I am waiting for the legal description of the Potter Marsh Rifle Range so that the land contained therein can be "grandfathered-in" to the provisions of the subject bill.

As you will recall, we have discussed this earlier. If you have questions, please feel free to give my office a call.

- Sections 35 — 36
- (D) Township 57 South, Range 90 West, Seward Meridian  
Sections 1 — 36
- (E) Township 57 South, Range 89 West, Seward Meridian  
Sections 5 — 6
- (F) Township 56 South, Range 87 West, Seward Meridian  
Sections 1 — 6  
Sections 10 — 11
- (G) Township 56 South, Range 88 West, Seward Meridian  
Sections 1 — 23  
Sections 27 — 32
- (H) Township 55 South, Range 87 West, Seward Meridian  
Sections 1 — 36
- (I) Township 56 South, Range 89 West, Seward Meridian  
Sections 1 — 36
- (J) Township 55 South, Range 89 West, Seward Meridian  
Sections 1 — 36
- (K) Township 55 South, Range 88 West, Seward Meridian  
Sections 1 — 36
- (L) Township 55 South, Range 86 West, Seward Meridian  
Sections 6 — 7  
Sections 18 — 19  
Sections 30 — 31
- (M) Township 56 South, Range 90 West, Seward Meridian  
(entire township);
- (15) Cape Newenham National Wildlife Range, including tide and submerged land in Chagvan Bay described as follows:
- (A) Township 16 South, Range 75 West, Seward Meridian  
Section 1  
Sections 11—15  
Sections 22—27  
Sections 34—36
- (B) Township 16 South, Range 74 West, Seward Meridian  
Sections 7—9  
Sections 17—19  
Section 30;
- (16) Clarence Rhodes National Wildlife Range;
- (17) Arctic National Wildlife Range.
- (b) The following described state-owned land and adjacent state water, excluding existing and applied-for highway, pipelines and railway rights-of-way as of May 20, 1971, are established as the Potter Point State Game Refuge: All land and water south and west of and adjacent to the toe of the bluff which extends from Campbell Point southeasterly to Potter Creek. Notwithstanding any other provision of law, before June 26, 1976, the municipality in which the Potter Point State Game Refuge is contained may zone privately owned land within

the refuge. If no zoning action is taken by the municipality before June 26, 1976, the Department of Natural Resources may adopt, in accordance with the Administrative Procedure Act (AS 44.62), zoning regulations governing privately owned land within the Potter Point State Game Refuge.

(c) The presently owned state land, tideland, submerged tideland, submerged land and water, and the land and water acquired in the future by the state lying within the parcels described in (1) — (2) of this subsection are established as the Goose Bay State Game Refuge:

(1) Township 15 North, Range 3 West, Seward Meridian

Sections 17 — 20, 29, 30: All

(2) Township 15 North, Range 4 West, Seward Meridian

Section 1: W  $\frac{1}{2}$  W  $\frac{1}{2}$

Section 2—3: All

Section 4: Lot 1, SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , E  $\frac{1}{2}$  SE  $\frac{1}{4}$

Section 9: Lots 1, 2, 3, NE  $\frac{1}{4}$  NE  $\frac{1}{4}$

Sections 10—11: All

Section 12: S  $\frac{1}{2}$

Sections 13—15: All

Section 23: N  $\frac{1}{2}$  NE  $\frac{1}{4}$

Section 24: All

The following protracted and fractional parts within Tract A:

Section 9: E  $\frac{1}{2}$

Section 10: All

Section 15: All

Section 16: All

Section 21: N  $\frac{1}{2}$

Section 22: N  $\frac{1}{2}$

(d) The state may not acquire by eminent domain privately-owned land within state-owned land specified in (c) of this section for inclusion in the Goose Bay State Game Refuge. The Department of Natural Resources may adopt, in accordance with the Administrative Procedure Act (AS 44.62), zoning regulations governing privately-owned land within the Goose Bay State Game Refuge.

(e) Egress and ingress to and from private property within the parcels described in (1) — (2) of this section shall be allowed through access corridors established through agreement between the Department of Natural Resources and the Department of Fish and Game, and with the private property owners involved. (§ 3 ch 114 SLA 1960; am § 1 ch 81 SLA 1971; am § 1 ch 140 SLA 1972; am § 28 ch 53 SLA 1973; am § 1 ch 101 SLA 1975; am § 1 ch 192 SLA 1975)

Legislative history reports. — For report on ch. 53, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885.

CarRA - 1/30/86 - HB 186 - Res CS

Julie Kelly

Representing ~~the~~ Rep. Szymanski  
went over provisions of bill

Ned Farquhar

Dept supports this bill

DeVries

Constituents say when make comments at hearing  
for mgmt plan -- comments are not listened  
to --

Farquhar

This come about as result of a lot of  
citizen input - this will continue

DeVries

Still have concern

Cohen

- F&G supports bill.  
Public planning process will be led by the  
Dept.

Leg approval unnecessary - also legal  
problems in having Leg review -  
Someone from legal here to  
testify

Koester  
Dept of Law

Admits to legislative veto of mgmt  
plan — separation of powers —  
this is a violation of this concept

leg. must affirmatively legislate  
becomes effective unless legislatively  
disapproved

DeVries -

I just got this at 3:30 Today saying  
this is unconstitutional — attorneys  
over there should have advised —  
this was drafted a long time ago  
I will just hold the bill

Fischer

This was brought up in resources —  
discussed — decided it wouldn't  
work — would like to see us  
go ahead with this bill

Sturg

have had extensive discussions  
this part yr — there are ways to  
get plans w/o bogging down the

Legislature w/ Leg review plans  
There is a good process out there —  
public is involved.

Carliss would not support it and  
would speak against it on floor —  
problem with

Coghull

possibly not place to discuss this —  
I think you are  $\delta$  on right key —  
because we are planning ~~to~~ our lives —  
everywhere — need some basis for  
this Leg to get into a plan and  
look at it —

Koester

Appropriate mechanism would be to  
introduce  $\delta$  legislation saying specific  
things should happen or should not  
happen —  
or could say plans must be reviewed  
or revised every 5 or 10 yrs —  
Making mgmt plan subject to Leg approval  
would create uncertainty in enforcement.  
maybe use a Sunset provision

Coghull

Some place along line this body should be able to do something about those bureaucrats planning our lives from the sunset to the ~~grave~~ grave.

Keester

- 2 ways
- 1) direct provision for periodic review
  - 2) mechanism of affirmative legislation

Coghull

Maybe we need to consider that all mgmt plans be reviewed so we would have a window in this process

DeVries

We are going to hold it until we see which legal opinion is right



Official Business

# Alaska State Legislature

## Senate

### Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:  
Senator Ferguson, Vice Chairman  
Senator Coghill  
Senator Sturgulewski  
Senator V. Fischer

Pouch V  
Juneau, Alaska 99811

January 30, 1986

C&RA Committee Meeting

CSHB 186 RES - An Act creating the Anchorage Coastal Wildlife Refuge

Sponsor: Rep Szymanski  
Co-Sponsor: Rep Clocksin

The Committee heard the Senate companion bill--SB 19--on January 29, 1985; and passed it out of committee on February 26.

The bill establishes the Anchorage Coastal Wildlife Refuge to be managed as a refuge for the protection of waterfowl, shorebirds, salmon, and other fish and wildlife species and their habitat and for the use and enjoyment of the people.

The geographical area of the Refuge is legally described.

Fish and Game and Dept of Natural Resources exercise authority within the Refuge consistent with a management plan that is to be prepared by the Dept of Fish and Game.

The management plan must assure surface access to Fire Island and recommend a corridor for constructed access and utilities between Fire Island and the Anchorage mainland.

Certain Municipality of Anchorage land is to be included within the Refuge and such land is to be managed by agreement between F&G and the MOA.

The State or the MOA may not acquire privately owned land within the Refuge by eminent domain; however such land may be acquired by purchase/exchange.

Land and water within the Refuge is closed to mineral entry under AS 38.05.185 and 38.05.275. -- The management plan for the Refuge is to be completed within one year of the effective date of the Act.

Attached materials relating to the bill are:

- 1) Bill history & letter of intent.
- 2) Committee reports from Senate Resources and Senate State Affairs.
- 3) Letters from Rep Szymanski; Municipality of Anchorage; and Alaska Waterfowl Association
- 4) Map



# Alaska State Legislature

House of Representatives

Representative Mike Szymanski

11920 Johns Road  
Anchorage, Alaska 99515  
Phone (907) 349-3373

While in Session:  
Pouch V

State Capitol  
Juneau, Alaska 99811  
(907) 465-4978/4979

Finance Committee

Oil and Gas Committee

January 29, 1986

JAN 29 1986

## M E M O R A N D U M

TO: Senator Edna DeVries  
Chairman, Senate Community &  
Regional Affairs Committee

FROM: *Mike Szymanski*  
Representative Mike Szymanski

SUBJECT: CSHB 186

With regard to the proposed Senate CS for CSHB 186, I feel very strongly that submission of a management plan to the Legislature for approval is not acceptable.

The management plan as carried out by the Department of Fish and Game involves public hearings and public input and is a formal planning process. It is anticipated that this is where legislators will provide their input, if there is a direction which they would like to see the Department take.

To place the Legislature in the position of having to approve a management plan would not only put the Legislature in the position of basically drafting the plan, but it would remove the management prerogative from local government and from the Department of Fish and Game. Simply stated, I believe that the management plan is not a function of the Legislature.

If there is some direction in particular that the Committee wishes the Department to take with regard to this legislation, I would respectfully suggest that this might be addressed in a letter of intent, which I feel would be a more appropriate vehicle.

I have asked the Department of Fish and Game to present the Committee of an explanation of what a management plan entails, if you so wish.

Thank you for your consideration.

cc: Department of Fish and Game

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NOT BEEN FILMED BUT IS  
AVAILABLE IN THE ORIGINAL  
FILE

## Section 7 - Cost Summary

### Location

Jade Street to Klatt Fill Site  
2.0 Miles

### Description

The recommended trail route in Section 7 starts at the intersection of West Dimond Boulevard and Jade Street and continues down Jade Street, across Campbell Creek, along the shore to the Klatt Road fillsite. Nearly all the land required for the trail is within public right-of-way, or has a coastal trail easement. The exception is the private property at the immediate southwest end of Jade Street. The most important criteria in selecting the route for this section was to return the trail to the coast and to reduce the impact on the existing residential communities. As in Section 6, one of the difficulties in returning the trail to the coast from West Dimond Boulevard is the hazard of building the trail on highly unstable soil conditions resulting in potential undercutting of the existing slopes. The Jade Street location for the trail provides for the most constructable route between West Dimond Boulevard and the coast. However, this location also has the greatest impact on the adjacent residences. It is recommended that when Section 7 comes under consideration for construction, the alternative route of continuing down West Dimond Boulevard to Victor Street or another alternative be reviewed.

### Cost Summary

Construction Cost:  
Site Amenities:  
(at 30% construction cost)

Construction subtotal:

Contingency:  
(at 15% construction subtotal)  
Administration/Engineering  
(at 20% construction subtotal)

Capital Cost total:

Property Acquisition:

TOTAL COST:



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AVAILABLE IN THE ORIGINAL  
FILE

## Section 8 - Cost Summary

### Location

Klatt Fill Site to Oceanview Bluff Park  
2.93 Miles

### Description

Section 8 will connect the new developments at Klatt Road fill site to Johns Park and Oceanview Bluff Park. The route is mostly on public land and on fill over coastal wetland and woodland environments. In instances where freshwater streams enter the wetlands, the trail is to be constructed on an elevated boardwalk. One of the most important routing criteria for this section was to reduce the impact on private property. As a result, the trail is generally located 100 to 300 feet from the toe of the bluff to ensure it is beyond private property. This amount of distance from the bluff was selected to accommodate the owners of the adjoining property. In areas where the slopes are public land, the trail returns to the toe of the bluff.

### Cost Summary

Construction Cost:  
Site Amenities:  
(at 30% construction cost)

Construction subtotal:

Contingency:  
(at 15% construction subtotal)  
Administration/Engineering  
(at 20% construction subtotal)

Capital Cost total:

Property Acquisition:

**TOTAL COST:**



THE FOLLOWING DOCUMENT HAS  
NOT BEEN FILMED BUT IS  
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## Section 9 - Cost Summary

### Location

Oceanview Bluff Park to Rabbit Creek Rifle Range  
1.45 Miles

### Description

Heading south from Oceanview Bluff Park, the recommended route within Section 9 follows an existing trail located on public land that parallels the Alaska Railroad. The trail then moves inland until it is on railroad right-of-way and continues until it reaches a potential tunnel crossing under both the railroad and New Seward Highway. Major routing concerns here dictated the trail must stay far enough away from high speed trains on a downgrade and avoid conflict with the Rabbit Creek Rifle Range located adjacent to the Seward Highway.

### Total Cost Summary

**Construction Cost:**  
**Site Amenities:**  
(at 30% construction cost)

**Construction subtotal:**

**Contingency:**  
(at 15% construction subtotal)  
**Administration/Engineering**  
(at 20% construction subtotal)

**Capital Cost total:**

**Property Acquisition:**

**TOTAL COST:**

