

SB

221



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB 221	SPONSOR Rules Committee, req. for Gov.
DEPARTMENT POSITION The department supports the bill.			
PREPARED BY Bruce Baker	DATE 4/6/87	COMMISSIONER'S SIGNATURE <i>Donnell Callensworth</i>	DATE 4.8.87

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Alaska Department of Natural Resources; Municipality of Anchorage	CONSTITUENT GROUP(S) AFFECTED BY BILL Hunters, recreationalists, trappers
ORGANIZATIONAL SUPPORT FOR BILL Conservation Groups, boaters, campers photographers, cross-country skiers	ORGANIZATIONAL OPPOSITION TO BILL None known

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The bill would return into public ownership a green belt along a portion of Eagle River protecting important fish and wildlife habitat, riparian habitat important for flood control, and maintenance of water quality. It would maintain the opportunity for traditional recreational uses such as hiking, wildlife viewing, canoeing, rafting and camping.

ANALYSIS OF BILL/PROGRAM EFFECTS

This bill would allow the state (Division of Parks) to actively plan and manage an important portion of Eagle River. Trails, wildlife viewing platforms, sanitary facilities, camping and picnic areas may be developed after completion of a plan. These types of development would accommodate the present high use of the area and demand for this type of recreational opportunity.

AMENDMENTS PROPOSED

None

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST:
 Revision Date: _____
 Title: Eagle River Greenbelt Land
Exchange
 Sponsor: RULES Committee
 Requestor: Governor

Bill Version: SB 221
 Publish Date: _____

Agency Affected: Dept. of Fish and Game
 BRU: Habitat, Sport Fish, Game

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Bruce Baker Phone: _____
 Division: Habitat Date: _____
 Approved by Commissioner: Donnell Callensworth Date: 4.8.87
 Agency: Fish and Game

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)
 Senate Secretary

SENATE COMMITTEE REPORT

FURTHER:

4/10/87

DATE TURNED INTO OFFICE _____

Mr. President:

RESOURCES

Committee considered

SB 221

Eagle River Greenbelt land exchange; efd.

and recommended:

[] replace with CS FOR _____) [] same title
[] or adopt _____ CS FOR _____) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[] no recommendation

[] individual recommendation

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [] adopted fiscal note(s)

[] new [] updated or [] previous

[] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Chairman signature and recommendation

[] Committee Backup Attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 4/2/87 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: RESOURCES

**FISCAL NOTE(S) ATTACHED X **
IN ACCORDANCE WITH AS 24.08.035
(see below)

DATE TURNED INTO OFFICE 4/10/87

Mr. President:

COMMUNITY & REGIONAL AFFAIRS Committee considered SB 221

relating to the Eagle River Greenbelt land exchange; efd.

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____
- letter of intent adopted and attached

Committee attached or adopted fiscal note(s)
Quinn zero fiscal impact Yes

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS Watson

Tim Kelly
Rich Halford
Mike [unclear]
[unclear]

Colin Stupulowski Do Pass
Chairman signature and recommendation

Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB221

Publish Date: _____

Revision Date; March 27, 1987

Agency Affected: Natural Resources

Title: Eagle River Greenbelt land exchange

BRU: Land and Water Management

Sponsor: Rules (Governor)

Components: _____

Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURE						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

Prepared by: Tom Hawkins

Phone: 465-2400

Division: Land & Water Management

Date: 3/27/87

Approved by Commissioner: Jennie Boston Gorseuch

Date: 3/27/87

Agency: Natural Resources

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 27, 1987

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, and AS 38.50.140, I am transmitting a bill approving and ratifying the Eagle River Greenbelt land exchange, and adding 1.09 acres to Chugach State Park. The land exchange acquires from Eklutna, Inc., for the public, a greenbelt consisting of 3,558 acres along Eagle River in the Municipality of Anchorage, and an option to purchase two additional parcels. In return, Eklutna will receive Block 112A, Anchorage Original Townsite, located on the east end of downtown Anchorage, plus \$173,300.

The state began land exchange negotiations with Eklutna, Inc. in June, 1986. The greenbelt is based on a plan adopted by the Anchorage Assembly on May 7, 1985 (Assembly Resolution 85-88). The original boundary of the planned greenbelt was adjusted to reduce the amount of developable land included, thereby reducing the overall cost to the state. Only surface interests are being exchanged. Cook Inlet Region, Inc. (CIRI), owns the subsurface of the Eklutna, Inc., land. In an agreement with the Municipality of Anchorage on November 25, 1986, CIRI agreed to execute to the state, without compensation, a non-development covenant for the subsurface estate to a vertical depth of 250 feet as long as the area is used for passive public park purposes. The covenant will also allow the annual use of up to 500 cubic yards of sand and gravel on site for trails and public access.

The land that the state is offering in exchange was acquired by the state for a state office complex. It is located between "A" and Cordova Streets and between Fifth and Sixth Avenues. Changing economic conditions have made plans for constructing a state office building on this site obsolete, leaving the land available for exchange. Under the terms of a settlement dated November 25, 1986

between the state and the Municipality of Anchorage, under the municipal entitlements statutes (AS 29.65), the Municipality of Anchorage will acquire the state's interests in Block 112A if this proposed land exchange is not completed.

The appraisals for this exchange were prepared by the firm of Black-Smith and Richards, Inc. The appraised value of the Eagle River Greenbelt being acquired by the state, including the Thunderbird Falls parking lot, is \$8,773,300. This total does not reflect the value of two parcels that were appraised separately. Parcels 3 and 4, appraised at \$220,000 and \$110,000 respectively, have been excluded from the exchange, with the state receiving an option until May 1, 1988 to purchase these parcels at that appraised value.

The appraised value of Block 112A is \$8,600,000. The difference of \$173,300 will be paid by the state to Eklutna, Inc. to make this an equal-value exchange. The legislature appropriated \$1,000,000 for acquisition of the Eagle River Greenbelt in 1986. Two-thirds of this was frozen by Governor Sheffield because of the revenue shortfall. There is, however, sufficient money left to cover the expenses for completing this exchange and to pay Eklutna, Inc. \$173,300 to equalize values in the exchange. If the money restricted by Governor Sheffield in capital improvement projects appropriation number 39454 is made available before July 1, 1987, the state will exercise its option to purchase parcels 3 and 4 before August 1, 1987.

This exchange has many benefits. Under the exchange, the state will acquire an important recreational resource in close proximity to a major urban area. The exchange will guarantee continued access by tourists and local residents to sport-fishing, wildlife viewing, berry-picking and other recreational activities. It will protect fish and wildlife habitat, and wetlands. It will also resolve two instances of state use of Eklutna, Inc. land: both the Eagle River Campground and the Thunderbird Falls parking lot are located partially on land owned by Eklutna, Inc.

This exchange also makes Block 112A available for private development. This block is located diagonally across from the Anchorage Historical and Fine Arts Museum, near the Sheraton Hotel and other tourist attractions. The state's development of this block no longer seems feasible. Allowing it to remain as a vacant parking lot on the main

thoroughfare into Anchorage is considered by many to amount to urban blight. Eklutna, Inc. will be in a better position to develop this parcel, and the land will return to the tax rolls.

Section 1 of the bill sets out the purpose of the legislation. Section 2 of the bill approves the exchange. Section 3 adds the Thunderbird Falls parking lot, described as section 25, tract B, Thunderbird Heights Subdivision, to Chugach State Park. This is necessary because this parcel is outside of the boundaries of the park. Under AS 41.21.122, the commissioner is authorized to modify the park boundaries, subject to legislative approval.

All of the requirements for a land exchange, except legislative review, have been satisfied. The state gave public notice of the exchange in January and February 1987, and held public hearings in three locations on February 18, 1987. The hearing record remained open for two weeks after that to receive written comments. The finding, under AS 38.05.035(e), that this exchange best serves the interests of the state was made on March 6, 1987. On that same date the final exchange agreement was signed.

AS 38.50.140 says that the governor is required to transmit proposals for land exchanges to the president of the senate and the speaker of the house of representatives within 10 days after the convening of a regular legislative session unless exigent circumstances require transmittal at another time. Under the schedule agreed to by the parties on August 13, 1986, this bill would have been brought before you on January 20, 1987.

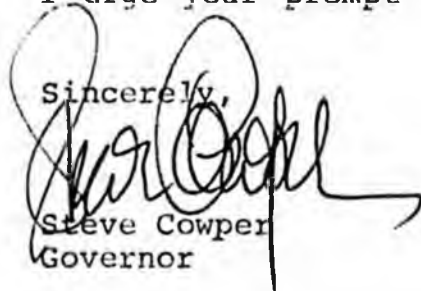
Due primarily to problems with the appraisal process, it was impossible to meet that deadline. A protest of the award of the appraisal contract was received from an unsuccessful bidder. The hearing and resolution of that protest delayed the award of the contract. In addition, several questions were raised by Eklutna, Inc. and by state review appraisers after the draft appraisals were received. Resolution of these questions and the delay in awarding the contract delayed approval of the appraisals by 75 days. For these reasons, I find that exigent circumstances prevented submittal of this legislation earlier this year.

Two relevant statutes are inconsistent with each other. AS 38.50.140, mentioned above, refers to land exchanges "submitted to the legislature for approval under AS 38.-

50.020(a)." However, AS 38.50.020(a) says nothing about legislative approval, merely stating that certain exchanges or final agreements to exchange are "subject to legislative review under AS 38.50.140." As you know, any statute purporting to subject an executive-branch act to a legislative veto raises significant constitutional issues under the law-making-procedures provisions and the separation-of-powers doctrine. See State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980); and Immigration and Naturalization Service v. Chadha, 462 U.S. 919, 77 L.Ed.2d 317, 103 S.Ct. 2764 (1983). Nevertheless, I am submitting this Eklutna land exchange to the legislature for approval because I know of and wish to accommodate the legislature's strong interest in it and because I wish to avoid any possible challenge to the exchange on the grounds that the statutes were not fully satisfied.

It is imperative that you approve this legislation this session if the exchange is to proceed. Failure to do so will lose this opportunity to acquire the Eagle River Greenbelt from Eklutna, Inc. If the exchange fails, the Municipality of Anchorage will receive the state's interest in Block 112A in partial satisfaction of Anchorage's entitlement under AS 29.65. I urge your prompt and favorable action on this measure.

Sincerely,



Steve Cowper
Governor