

S B

362



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB362	SPONSOR Eliason
SHORT TITLE OF BILL Dude Creek Critical Habitat Area			
DEPARTMENT POSITION Support			
PREPARED BY Bruce H. Baker	DATE 2/12/88	COMMISSIONER'S SIGNATURE <i>Walter R. Kelly</i>	DATE 2/12/88

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL Community of Gustavus
ORGANIZATIONAL SUPPORT FOR BILL Community of Gustavus	ORGANIZATIONAL OPPOSITION TO BILL None known

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The purpose of establishing the Dude Creek Critical Habitat Area is to protect and enhance the wet meadow habitat that is the key roosting area for migrating lesser sandhill cranes, to protect lesser sandhill cranes, and for the continued public use and enjoyment of the area.

ANALYSIS OF BILL/PROGRAM EFFECTS

1. Establishes the Dude Creek Critical Habitat Area.
2. Identifies the purpose for which the area is established.
3. Provides for the management of the Dude Creek Critical Habitat Area including the development of a management plan.
4. Clarifies the status of mental health lands in the Dude Creek Critical Habitat Area.

AMENDMENTS PROPOSED

Clarifying amendments:

The purpose statement should appear in statute, therefore, it should have a statute number, probably AS 16.20.610(b).

A final section should be added which states, "This Act takes effect immediately under AS 01.10.070(c)."

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SB362
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Dude Creek Critical Habitat
Area
Sponsor: _____
Requestor: _____

Agency Affected: Department of Fish and Game
BRU: Habitat Division
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		\$40,800				
TRAVEL		2,000				
CONTRACTUAL		6,720				
SUPPLIES		1,000				
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		\$50,520 *				

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		\$50,520				
FEDERAL FUNDS						
OTHER		\$50,520				
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Preparation of the Dude Creek Critical Habitat Area Management Plan

Prepared by: Bruce H. Baker *Richard D. Baker* Phone: 465-4105
Division: Habitat Division Date: 2/12/88
Approved by Commissioner: Don W. Wilh *FOR* Date: 2/12/88
Agency: Department of Fish and Game

Distribution (by preparer): *Amount required if two plans are prepared concurrently
Legislative Finance If existing schedule of one plan per year is adhered to,
Legislative Sponsor the operating budget would be adequate and this fiscal
Requestor note would not be necessary.
Office of Management and Budget
Impacted Agency(ies)

Dude Creek Critical Habitat Area

-Preparation of the Dude Creek Critical Habitat Area Management Plan will take one year to complete and require the following expenses:

Personnel

Habitat Biologist	(18c)	6 months	4500/month	27,000
Game Biologist	(16c)	2 months	4000/month	8,000
Drafting Technician	(14d)	1 month	3500/month	3,500
Clerk/Typist	(8a)	1 month	2300/month	2,300
				<u>\$40,800</u>

Travel

Staff travel to Gustavus and Juneau				2,000
-------------------------------------	--	--	--	-------

Contractual

Telephone	75/month x 12 months	900
Photocopy	10/month x 12 months	120
Advertising /public notices		1,000
Aerial photography		700
Printing/photographic/blueprinting		4,000
		<u>\$6,720</u>

Supplies

Office supplies		1,000
-----------------	--	-------

TOTAL		\$50,520
-------	--	----------

CS (ves) add to 1

SB36 2

A M E N D M E N T

Offered in the SENATE

BY ELIASON

TO: SB 362

Page 1, line 7, after "Area":

Insert "; and providing for an effective date"

Page 1, lines 9 - 13:

Delete all bill material.

Page 1, line 14:

Delete "Sec. 2"

Insert "Section 1"

Page 1, line 15, after "(a)":

Insert "The purpose of the Dude Creek Critical Habitat Area is the protection and enhancement of the wet meadow habitat that is the key roosting area for migrating lesser sandhill cranes, for the protection of lesser sandhill cranes, and for the continued public use and enjoyment of the area.

(b)"

Reletter remaining subsections.

Page 1, line 26:

Delete "(a)"

Insert "(b)"

Page 2, line 3:

Delete "(b)"

Insert "(c)"

Page 2, line 7:

Delete "(a)"

Insert "(b)"

Page 2, after line 10:

Insert a new bill section to read:

"* Sec. 2. This Act takes effect immediately under AS 01.10.070(c)."

DUDE CREEK CRITICAL HABITAT AREA

Letter of Intent

It is the intent of the Senate Resources Committee that surface vegetation and soils be maintained to preserve the wetlands nature of the critical habitat area and provide protection to migrating Lesser Sandhill Cranes.

In creating the Dude Creek Critical Habitat Area, the Senate Resources Committee also intends that hunting, fishing, and trapping activities will continue to occur in accordance with harvest regulations as established by the Boards of Fisheries and Game. The following public uses and activities: wildlife viewing; firewood harvesting; mechanized and non-mechanized access; hiking; berry picking; and grazing will be allowed to the extent that they are compatible with the purpose for which the area is established. The Department of Fish and Game will conduct specific fact finding, including public hearings in Gustavus, prior to making final determination of the compatibility of above uses.

The Department of Fish and Game is to consult with the community of Gustavus in the preparation and implementation of a management plan for the Dude Creek Critical Habitat Area. In the event that the community forms an Advisory Committee, the department will work closely with that committee in preparation of the plan.

Senator Dick Eliason
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Eliason,

In January, 1984, a referendum (enclosure 1) was sent to all registered Gustavus voters, asking whether they favored creation of a 4100-acre Critical Habitat Area to protect migrating sandhill cranes. This capped a two-year community effort to research the need for protection and the various protective options available. About 180 ballots were sent out; 91 people chose to vote; 66 favored the proposal and 25 opposed it.

A committee of Gustavus residents was then formed to act on this mandate. In consultation with Dobra Clausen, ADF&G, Habitat Division, we developed a package of background information (enclosure 2), a proposed draft of enabling legislation (enclosure 3), and a boundary map (enclosure 4). This material has now been displayed at the post office for several weeks, and to date we have received no adverse comment on it. We hope that you and Representative Goll will now begin the process of enactment into law.

In the course of our work on the crane issue, three clearcut community opinions have emerged. First, there is strong sentiment in favor of crane protection. Second, people favor the idea of a Critical Habitat if the community is fully involved in preparing legislation and management plan. And third, many feel that human use should be regulated only to the extent necessary. In particular, the following public uses and activities should be allowed: wildlife viewing, firewood harvesting, mechanical and non-mechanical access, hiking, berry picking, and grazing, unless such activities are documented to be detrimental to the migrating sandhill cranes or their habitat.

There is general agreement that present use types and amounts are not threatening the cranes or their habitat in the area proposed for legislative action. The protective effort was begun because cranes have been substantially excluded from other parts of Gustavus and could be eliminated throughout if future use and development proceed in an unplanned fashion.

Lloyd Prouty, Debbie Woodruff, Morgan DeBoer and I will be glad to provide further information or assist in any way you wish.

Sincerely,

Grog Strevoler, Chairman
"Crane Committee"

Box 94

Gustavus Community Association Referendum JANUARY, 1984

Established two years ago, the referendum was initiated to sample the opinions of the whole community, that is the registered voters of this election district. While not legally binding it is nonetheless recognized by the State of Alaska as a valid polling device.

Those responding are requested to return the completed referendum questions no later than Feb. 5th by mailing them to Box 62 Gustavus, AK 99826.

I. Road Maintenance-

Fact: In 1983 the Alaska State Legislature appropriated \$115,000 to upgrade Tong Road, Same Old Road, Salmon River Road and Rink River Road. An additional 27 thousand dollars was appropriated which was not used. The question arises on whether or not to spend this money for the maintenance of existing roads or upgrading other roads or returning the money to the state. Since receiving this request for this referendum, solicited legal opinion states that the GCA can be held liable for damages incurred as a result of this recent upgrade or any future maintenance or improvements to the roads or the Goode River Bridge.

Question:

1. The \$27,000 should be used for maintaining the four recently upgraded roads. Yes No
2. The \$27,000 should be used to upgrade other local access roads. Yes No
3. The \$27,000 should be used to hire a professional engineer to inspect the recently upgraded roads and to pay for any necessary corrections for safety, therefore minimizing liability to GCA. Yes No
4. The \$27,000 should be returned to the State. Yes NO

Pro Statement:

The \$27,000 could be used for several years to maintain local access roads, including snow removal. It has been estimated that it would cost somewhere between \$3,000 and \$6,000 a year to maintain these local access roads.

Winter snow removal would allow access year round and would allow the Fire Department and EMTs to respond to fire and medical emergencies. Pot holes could be filled in the spring and the roads could be graded throughout the spring.

Con Statement:

The acceptance of the \$27,000 will put the community in the road maintenance business while the intent of the \$115,000 was to bring the roads up to standard. Acceptance establishes a precedent for other new roads that will be built, with the community expected to maintain them. This also represents another step in our inertia towards local government, and if and when Gustavus incorporated road maintenance and liability costs would be substantial.

II. Jetfoil Service-

Fact: In early December of 1983, representatives from Boeing Marine and the State Division of Marine Transportation met with the community, informing residents of their plan to bring jetfoil service to Gustavus. Plans called for a 240 passenger boat coming once a week with a 40 lb. baggage limit at a price of \$30 on a test basis for the summer of '84, with alterations planned for the existing float. In response to protest expressed at the meeting the state agreed to postpone service until the question was put to the community in the form of a referendum. (P.S. On 12/13/83, a phonecall was received from DOT stating they could not wait for results of this referendum to do their schedule and therefore

question: were removing Gustavus from the 1984 summer route. The GCA would still like your opinion on this matter so please answer the question

1. Should the State of Alaska bring jetfoil service to the community of Gustavus? Yes No

Pro Statement:

Jetfoil service would provide a cheaper means of transportation and would thus enable more people to visit who would spend tourist dollars in our community. Other communities would be more accessible and may lead to full-time ferry service, which would allow increased freight and vehicular services. This would be an alternative for those who do not like to fly.

Con Statement:

The community has repeatedly petitioned against regular ferry service in the past and jetfoil service represents the same. Alterations to the existing float could possibly imperil local usage and existing barge service. There are no existing facilities to handle a large influx of visitors and subsequent impact could be substantial and detrimental to the community.

III. Dude Creek Meadows Protection-

Fact: In May of 1983 a questionnaire was sent to the registered voters of Gustavus asking if the sandhill cranes which, during migration, feed and rest along Dude Creek be given some sort of protection. Eighty-one percent of those questioned replied "yes." A committee was established to research the options available for protecting sandhill cranes and recommended the Community Association request the state legislature through Fish and Game, establish some 4,000 acres along Dude Creek as sandhill crane critical habitat.

Question:


- (Option 1) See Map
1. Should approximately 4,000 acres paralleling Dude Creek be designated as 'critical habitat' for the sandhill crane? 66 Yes No 25
2. If "no", would you support inclusion of only the area west of Dude Creek (Option 2), or some other type of protection other than "critical habitat" ?
- Yes No Specify _____


Pro Statement:


The setting aside of approximately 4,000 acres of Gustavus wetlands for a critical habitat designation for the approximately 7,000 sandhill cranes who rest and feed annually in the Dude Creek meadows signifies the commitment to the well-being of a particular species of waterfowl. Boundaries protect only the areas most heavily used by the cranes. All traditional uses such as hunting, trapping, firewood harvest and all-terrain vehicle use will continue as long as they do not interfere with the species. The area would serve for perpetuity as a recreational area. Community input on the area's management can be very strong if we help write the legislation and management plan.

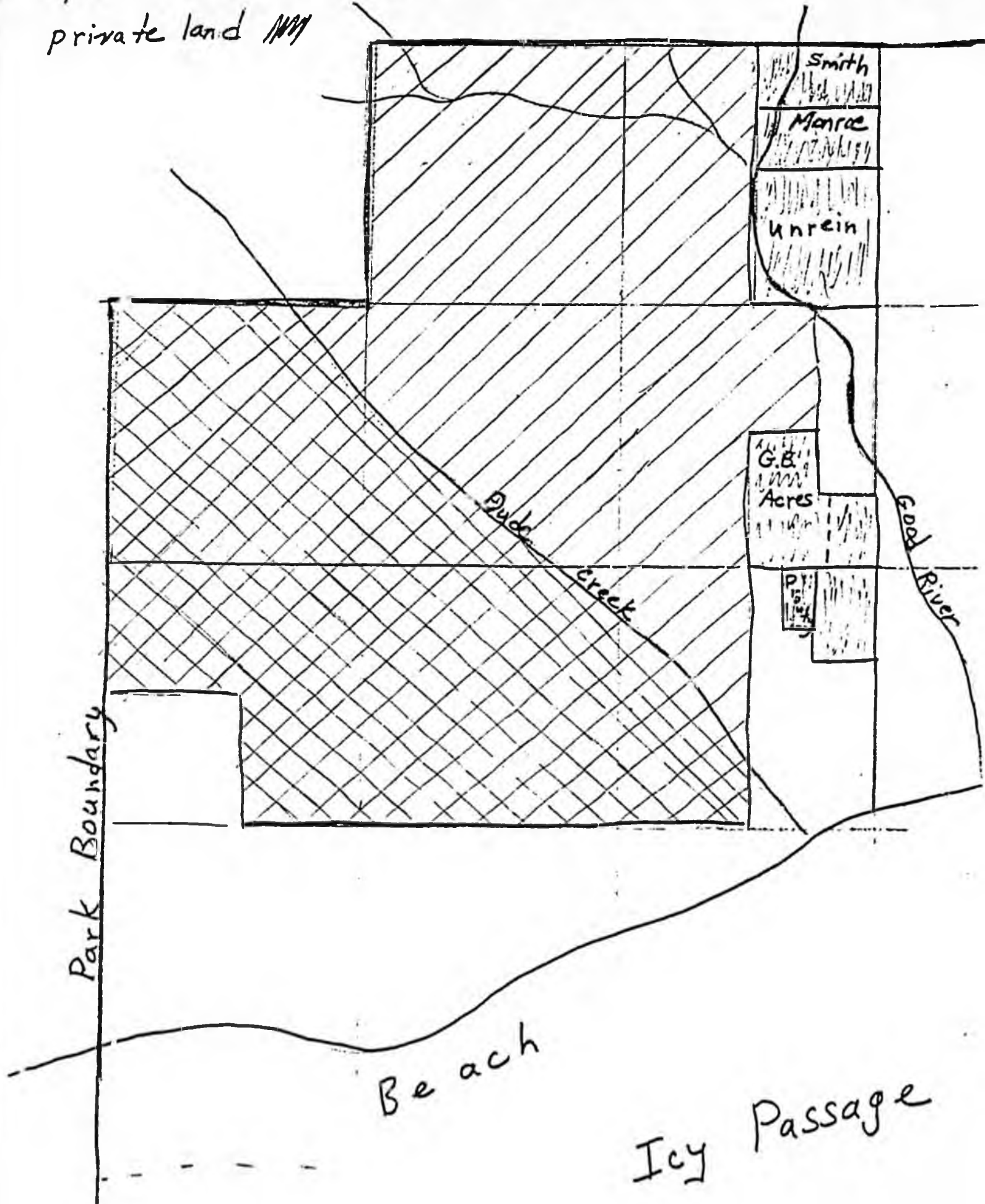
Con Statement:

Because Gustavus is already surrounded by 2 million acres of Park, any lands restricted for use within our community would only hinder further growth and is merely an attempt to lock up more of our state. Agricultural and recreational uses may be restricted by Fish & Game and/or "environmental concerns" and others who may not be truly in touch with our needs - this could be dangerous. To lock up lands used only a couple months a year by the cranes, and likely to change by natural succession is unwise.

option 1  about 4100 acres

option 2  about 1800 acres

private land 



ALASKA STATE LEGISLATURE . SENATE

SENATOR RICHARD I. ELIASON



RESOURCES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, VICE CHAIRMAN
LEGISLATIVE COUNCIL
RESOURCES COMMITTEE
FISHERIES SUBCOMMITTEE, CHAIRMAN

P.O. BOX 143
SITKA, ALASKA 99835
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4916

MEMORANDUM

TO: Senator Jack Coghill, Chair
Senate Resources Committee

FROM: Senator Dick Eliason *Dick Eliason*

RE: S.B. 362 - An Act establishing the Dude Creek Critical
Habitat Area

DATE: February 9, 1988

Senate Bill 362 establishes the Dude Creek Critical Habitat area near Gustavus. This legislation is a direct response to a request from the residents of Gustavus. In January, 1984, the community of Gustavus overwhelming passed a referendum requesting the establishment of a critical habitat area for the protection and enhancement of a key roosting area for migrating Lesser Sandhill Cranes.

In 1985 similar legislation passed the House unanimously, but as the majority of the land in question was mental health trust land, the Senate decided to delay action on the legislation until an equitable solution to the trust land issue was found. Passage of Chapter 48, SLA 1987, provided the answer. Under the enactment of this law, 3,443 acres of mental health trust land located within the proposed critical habitat area will remain in the mental health trust corpus and the Department of Natural Resources will not need to find replacement lands for this acreage. George Rogers, chairman, Interim Mental Health Trust Commission, supports the passage of SB 362.

The designation of a critical habitat area would allow all traditional uses of the land while providing wildlife habitat protection.

Gustavus Community Association



Post Office Box 62
Gustavus, Alaska 99826

January 27, 1988

Senator Dick Eliason
Pouch V
Juneau, AK 99801

Dear Senator Eliason,

With the settling of the mental health land issue, the way again seems clear for CSHB 312, the bill for an act to establish the Dude Creek Critical Habitat Area.

I would like to take this opportunity to encourage your support for this bill. Work was begun toward the possibility of the critical habitat designation in 1978 and through a lengthy process of negotiation and compromise a proposal was reached that does meet the needs and wishes of most people.

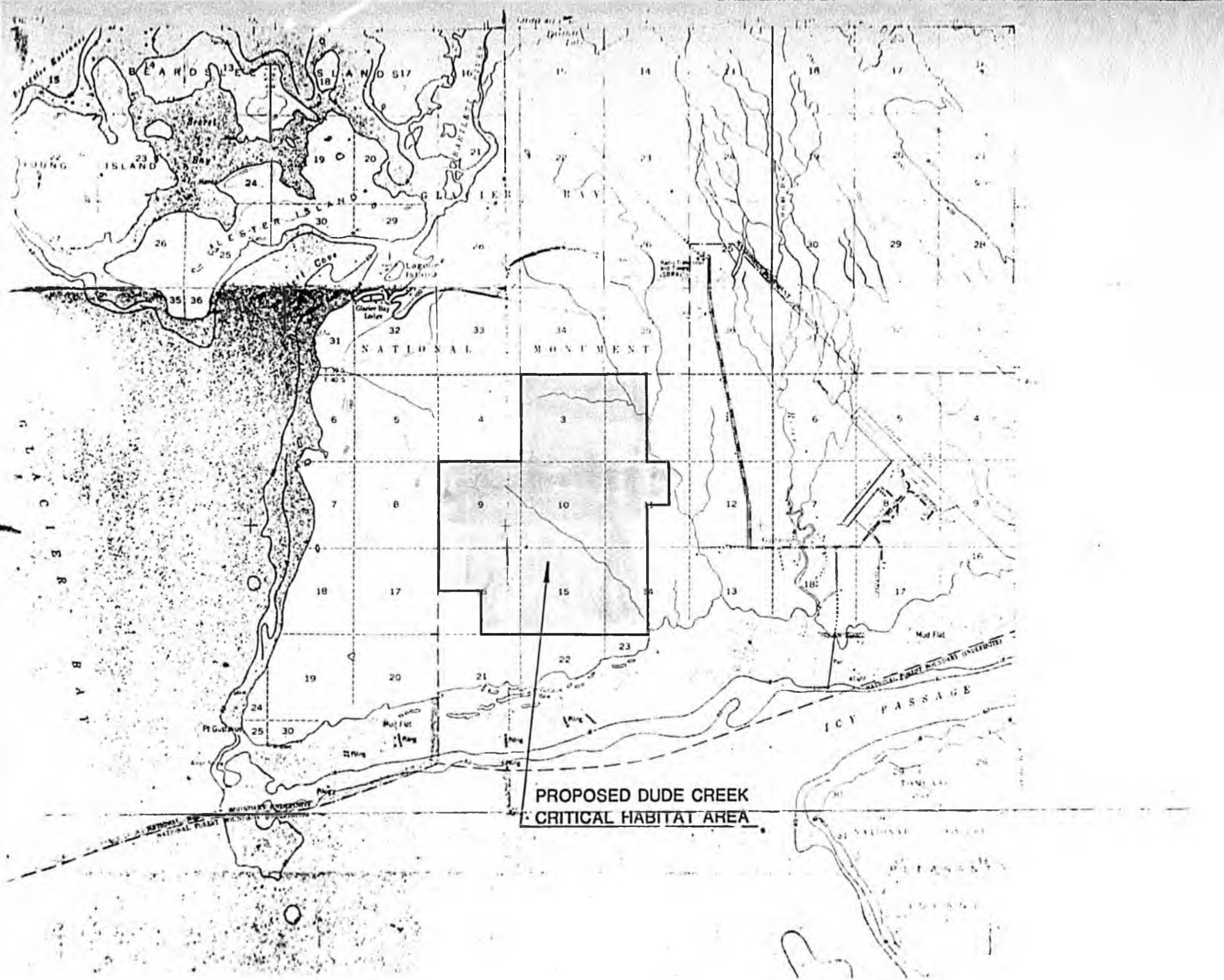
The community demonstrated majority support for this bill in January, 1984, in a referendum ballot polling every registered voter. The response was 66 in favor and 25 opposed. In 1985, the Gustavus Community Association endorsed the bill.

The critical habitat designation would allow all traditional uses of the land to continue, i.e., hunting, fishing, clamming, berry picking, collection of beach logs, kelping, grazing, hiking and use of recreational vehicles, while providing enduring wildlife habitat protection.

Thank you for your consideration.

Best regards,
Don Mills
Dan Mills
President

DM/am



**PROPOSED DUDE CREEK
CRITICAL HABITAT AREA**