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SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of _____ 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

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

DATE TURNED INTO OFFICE 2/20/87

Mr. President:

RESOURCES Committee considered SB 41

relating to cabins on state land; efd.

and recommended:

replace with CS SB 41 (Res.) 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)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
Alexis Stupulewski
[Signature]
[Signature]
Paul Grish

[Signature]
Chairman signature and recommendation

Committee Backup Attached

Alaska State Legislature

Senate Resources Committee



Box V
Juneau, Alaska 99811
(907) 465-1007

Sen. John B. (Jack) Coqhill, Chairman
Sen. Paul Fischer, Vice-Chairman
Sen. Lloyd Jones
Sen. Miss Szymulewski
Sen. Jim Duncan
Sen. Fred Zhanoff
Sen. Dick Hansen

Letter of Intent

CS SB 41 (Res)

It is the intent of the legislature that the Department of Natural Resources use best efforts to get the associated costs of surveying of the one-acre cabin sites within reasonable levels. It is further the intent of the legislature that this may include using the metes and bounds surveying process when the cost of a cadastral survey is prohibitive.

one-acre

A large, stylized handwritten signature in black ink, likely belonging to John B. Coqhill.

*4/3
Halsad moved and, asp
we, & then moved Resource
Letter of Intent as amended
be adopted as a Senate
Letter of Intent. asp we.*

*Technical correction
to ... to ...*

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB 41
Publish Date: _____

Revision Date: February 3, 1987

Title: CABINS ON STATE LAND

Agency Affected: NATURAL RESOURCES
BRU: LAND & WATER MANAGEMENT

Sponsor: BENNETT

Requestor: Senate Resources Committee

Components: LAND CONVEYANCE

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		232.0*	232.0*	232.0*	232.0*	
TRAVEL		40.0	40.0	40.0	40.0	
CONTRACTUAL		85.0**	85.0**	85.0**	85.0**	
SUPPLIES		6.0	6.0	6.0	6.0	
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		363.0	363.0	363.0	363.0	

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

REVENUE		125.0	125.0	125.0	125.0	
---------	--	-------	-------	-------	-------	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		363.0	363.0	363.0	363.0	
FEDERAL FUNDS						
OTHER						
TOTAL		363.0	363.0	363.0	363.0	

POSITIONS:

FULL-TIME		4*	4*	4*	4*	
PART-TIME		2*	2*	2*	2*	
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

*If the proposed amendments are adopted these figures may be cut in half. **If the proposed amendments are adopted these figures may be reduced by \$35.0. SEE ATTACHED

Prepared by: Tom Hawkins *Tom Hawkins*
Division: Land and Water Management

Phone: 465-2400
Date: February 3, 1987

Approved by Commissioner: Wm O Arnold, Deputy
Agency: Natural Resources

Date: 2/4/87

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 41

With the passage of SB 41, the Department of Natural Resources would encounter a large number of applications which could not be processed using existing personnel. If the bill is not amended to incorporate a relatively short anniversary date, it is really impossible to determine when the impact to the state will actually occur, or whether anyone will be available to do the work when it is required. Without the anniversary date it would have to be assumed, for example, that all 2,000 applications would be submitted and have to be advertised separately. This could cost the state \$140,000 in advertising alone unless this cost is passed on to the applicant.

Five positions at a range 16 would be needed to process the applications statewide (two in Southcentral, two in Northern and one in the Southeast Regions). If the proposed amendments to make notice and appraisal costs the responsibility of the applicant is approved and a relatively short anniversary date is incorporated in the legislation the number of necessary positions required could be cut in half, and the contractual services money reduced by \$140,000.

Because the estimates range as high as 2,000 eligible cabins, the program would have to continue for a number of years. This fiscal note projects that number to four. The number of applications processed the first year of the program would necessarily be low due to the organization of and preparation for processing. Regulations may also be necessary to define historical use and occupancy and what qualifies as an investment. Also, it is necessary to delineate what happens to the cabin should the application be denied.

Line Item Explanation

100- Five positions, range 16 (NRO II), 232.0*

200- Travel to field check cabins/appraisals/surveys, review area resources for possible conflicts, 40.0

300- Advertising, hearings, legal assistance for adjudicating applications and administrative appeals, preparation and issuance of some title documents, 190.0**

400- Supplies and commodities for staff, 6.0

*This annual figure may be cut in half if the proposed amendment to make notice and appraisal costs the responsibility of the applicant is approved.

**This figure may be reduced by \$140,000 (\$35,000 per year) if the same amendment is passed.

The addition to the bill of a relatively short anniversary date to submit applications will decrease its impact on the state.

STATE OF ALASKA 1987 LEGISLATIVE SESSION

FISCAL NOTE SENATE

BILL VERSION: CSSB 41(Fin)

PUBLISH DATE: 3/24/87

REQUEST: _____

Revision Date: _____

Title: Cabins on state land

Sponsor: Senator Bennett

Requestor: Senate Finance

Agency Affected: Dept. of Natural

BRU: Resources

Land and water management

Components: Land Conveyances

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	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

Prepared by:  Phone: 465-3714

Division: Senator Don Bennett, Co-chairman Date: March 18, 1987

Senate Finance Committee

Approved by Commissioner: _____ Date: _____

Agency: _____

Distribution (by preparer):

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: CS SB 41 (Resources)
Publish Date: 2-23-87 *Seneca*

Revision Date: 2/23/87
Title: Cabins on State Land

Agency Affected: Natural Resources
BRU: Land & Water Management

Sponsor: Senator Bennett
Requestor: Senate Resources

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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Prepared by: Tom Hawkins Phone: 465-2400
Division: Land & Water Management Date: 2/23/87

Approved by Commissioner: Wm D Arnold, Deputy Date: 2/23/87
Agency: Natural Resources

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
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The addition to the bill of a relatively short anniversary date to submit applications will decrease its impact on the state.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801
PHONE: (907) 465-2400

February 18, 1987

The Honorable Jack Coghill
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Coghill:

On February 6 when the Resources Committee discussed SB 41 you asked how many cabins were located in legislatively designated areas. The purpose of this letter is to report the number of those cabins we estimate are located in state parks and forests. The Alaska Department of Fish and Game has furnished you with similar information for special areas which they manage.

The Division of Parks and Outdoor Recreation estimates that there are 20 "SB 41 eligible" cabins in the park system. There are an additional 100 Native allotments, many with "SB 41 eligible" improvements, which would qualify if they are not declared valid by the BLM adjudicative process.

The Division of Forestry reports five SB 41 cabin in the Tanana Forest and an additional six cabins in the Haines Forest. The Division of Land and Water Management found 5 cabins in the Matanuska Moose Range and estimates that the Nelchina Public Use area contains at least 15 SB 41 eligible units.

It is difficult to be precise about exactly when these cabins were constructed and which would be disqualified by moving the threshold date to 1969. Our records, which are admittedly skanty, suggest that 75 percent of the cabins were constructed prior to 1969. If you require additional information about the effect of the bill on special areas created by the Legislature, please contact us.

Sincerely,

Tom Hawkins

Tom Hawkins
Director
Division of Land and Water Management

cc: Neil Johannsen
George Hollett
Margaret Hayes

P.O. Box 55698
North Pole, Ak 99705
February 2, 1987

FEB -4 1987

Senator Jack Coghill, Chairman
Senate Resources Committee
Pouch V
Juneau, Ak 99811

Dear Senator Coghill;

I understand that the cabin bill will be coming up for hearing in the Senate Resources Committee very soon.

I have a very dear friend that has been involved in trying to obtain title to a cabin for a number of years. Unfortunately, she is away on vacation at the present time, so is unable to relate her story to you. In her absence, I shall briefly explain the problem she has encountered.

Bob and Delores Tarnowski constructed a cabin near a small lake close to the area known as Twin Lakees. I believe this cabin was begun in 1958. All the material had to be flown into the site. This cabin was used by the Tarnowski's as a summer residence, and once in a while during the winter.

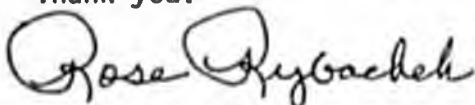
Approximately 5 years ago, Bob Tarnowski died. He had never taken the steps necessary to obtain a federal homesite on the cabin. The State of Alaska has now obtained title to the land.

Delores has been trying to obtain some sort of title to the cabin ever since the State of Alaska notified her that the cabin was on their land. She has filled out a multitude of paperwork, has had to obtain affidavits from friends (and many of her friends that knew the circumstances have since passed away). She has been engaged in a terrific paperwork battle, but to no avail at this time.

It seems only fair to me that Alaskans that have had the initiative to construct cabins in remote areas, maintained their upkeep and used these cabins for a number of years, should have some legal mechanism to obtain title to those cabins. I therefore urge you to pass the cabin bill.

I would like to suggest that you consider moving the effective date of building a cabin back a few years. I would suggest that you consider 1970 as a date that any cabin constructed after that date would not fall within the cabin bill. I believe that would eliminate the cabins that were constructed for questionable reasons.

Thank you.



Rose Rybachek

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801
PHONE: (907) 465-2400

February 4, 1987

The Honorable Jack Coghill, Chair
Senator Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Coghill:

Subject: SB 41 which provides for the sale of state land underlying cabins used and occupied before 1981 and continuing in use.

Response: Because it would grant a preference right not justified by unique or extenuating circumstances to unauthorized users of state land the department does not support this bill.

Analysis: Although the department is generally required to make land available by providing Alaskans the same opportunity to obtain land openly and competitively, fifteen statutes provide for preference rights to persons or groups, giving them priority or exclusive rights to purchase or lease lands. These special preference rights are based on the historical difficulties faced by Alaskans to acquire interests in land and are due in great part to the confused nature of land ownership patterns in Alaska. Of those preference rights, the ones that may be similar in purpose to SB 41 are:

AS 38.05.035(b)(2): allows a diligent applicant, who failed to obtain title because of state or federal error or omission and who has suffered an "inequitable detriment" to purchase or lease land without competitive bid.

AS 38.05.035(b)(3): allows an applicant who has made improvements and good faith efforts to obtain title to purchase a land without competition if the efforts to obtain title were prejudiced by another party.

AS 38.05.035(b)(5): allows an applicant (or his heirs) who made improvements to land before 1959 and who would suffer an injustice otherwise to purchase up to five acres of land without competitive bid.

AS 38.05.035(f): allows an applicant legally using federal lands for business purposes for five or more years before state selection to purchase or use lands without competitive bid.

AS 38.05.068: allows a U.S. Forest Service permittee to obtain title to land once the land is transferred to the state before such land could be offered to others.

Unlike the preference rights described above, SB 41 would not require that the applicant be an innocent victim of actions of others, or be a pre-statehood unauthorized user who would suffer injustice, or be a permittee whose legal use rights were jeopardized by a change in the ownership of the land. SB 41 would simply allow the commissioner to sell land to persons who had used and invested in cabins before 1981 and since.

One other preference right opportunity exists in departmental regulations. Owing to the existence of a very large number of unauthorized cabins on the state's land, regulations were adopted to allow their users to obtain lifetime permits as long as they were not located in state parks. About 300 such permits have been issued. Even though the unauthorized users are rewarded, in a sense, the state can assume ownership of their cabins in the future and renewal of permits is based on consistency with public purpose findings.

If SB 41 were enacted, persons holding such personal use cabin permits would be among the likely applicants. In addition, persons who have built in state parks and refuges who are ineligible for such permits would be likely applicants for fee ownership.

Recommendations:

In the event the Legislature desires to enact a bill similar to SB 41, we recommend that criteria be added so that whatever discretion is afforded the commissioner it may be measured against tests of injustices suffered. In addition, we recommend that the department be given

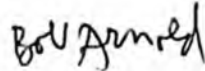
Senator Coghili

-3-

February 4, 1987

discretion as to the width of easements to be reserved along waterways and that purchasers be required to pay the costs of appraisal as well as survey.

Sincerely,



Robert D. Arnold
Deputy Commissioner

cc: Committee Members

February 2, 1987

Honorable Senator Coghill
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Coghill:

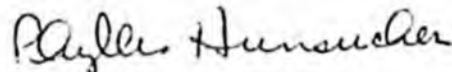
I understand the Senate Resources Committee will be discussing SB41: Cabins on State Land. During the last legislative session as a volunteer for the Alaska Resource Policy Coalition I gave testimony in support of this bill.

Please hear my voice again in favor of the intent and some form of legislation. I support the broader interpretation of dates so that the "grandfathering clause" which usually accompanies a change in the law is realized. I question the easement footage and would urge the committee to use judgment based upon "uniformity of state and local easement ordinance thus avoiding confusion."

Any great state is built upon the people living within the state and not just the land mass. This particular piece of legislation supports that philosophy and gives justice to those people who have invested time, money and a lifestyle in building Alaska.

Please instruct your staff that they do not have to reply to this letter. This will save time and money. Thank you.

Sincerely,



Phyllis Hunsucker
1618 Scenic Loop
Fairbanks, Alaska
99709

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

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

February 17, 1987

The Honorable Jack Coghill
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Dear Senator Coghill:

During the February 6 Senate Resources Committee hearing on SB 41 (An Act relating to cabins on state land), you requested this department to provide you certain information regarding cabins on refuges. The record of information concerning cabins is very sketchy; there are no precise records that indicate when many of these cabins were constructed. Also, since many of the cabins were constructed without state authorization, they probably would not appear on legal status plats, even if we had a complete set of plats from which to work. Therefore, the following information is only a "best guess."

While we have provided the following data for only three areas, we believe that a number of the other game refuges and critical habitat areas may have similar problems with cabins albeit it to a lesser degree. We know, for example, that several of the five critical habitat areas in Bristol Bay have cabins which are of unverified status.

	# Cabins built before 1968	# Cabins built between ANCSA and refuge designation	# Cabins built since 1981
Susitna Flats State Game Refuge	46	37	14
Trading Bay State Game Refuge	7	5	6
Palmer Hay Flats State Game Refuge	3	1	1

The three state game refuges identified above were established in large part for wildlife protection and public recreation. Thousands of Alaskans use these refuges every year for waterfowl hunting and other forms of recreation. Unauthorized cabins in these three state game refuges were constructed in the heart of prime waterfowl habitat.

Senator Jack Coghill

-2-

February 17, 1987

Disposal of these lands to private interests would violate the integrity of these areas, significantly restrict or deny public access and use, and would make protection of these productive waterfowl habitats very difficult.

In order to more precisely answer your questions regarding cabins on refuges and critical habitat areas, it would be necessary to develop complete land status maps and a history of land status for each of the 23 areas, field check each of the areas for unregistered cabins, and contact each of the cabin owners for information on dates of construction (if known). We estimate that such an analysis would take several months of effort.

The requested maps showing the approximate locations of cabins in these refuges are enclosed. If you have further questions, please call me.

Sincerely,



Don W. Collinsworth
Commissioner

Enclosures

cc: Paul Fischer
Lloyd Jones
Arliss Sturgulewski
Jim Duncan
Fred Zharoff
Dick Eliason

SUSITNA FLATS

State Game Refuge

year established 1976

purpose to protect fish and wildlife habitat and populations; waterfowl nesting, feeding, and migration; moose calving areas; spring and fall bear feeding areas; salmon spawning and rearing habitats; public use of fish and wildlife habitat (waterfowl, moose, and bear hunting); viewing; photography; and general public recreation

lands involved state lands, tide lands, and submerged lands

● cabins

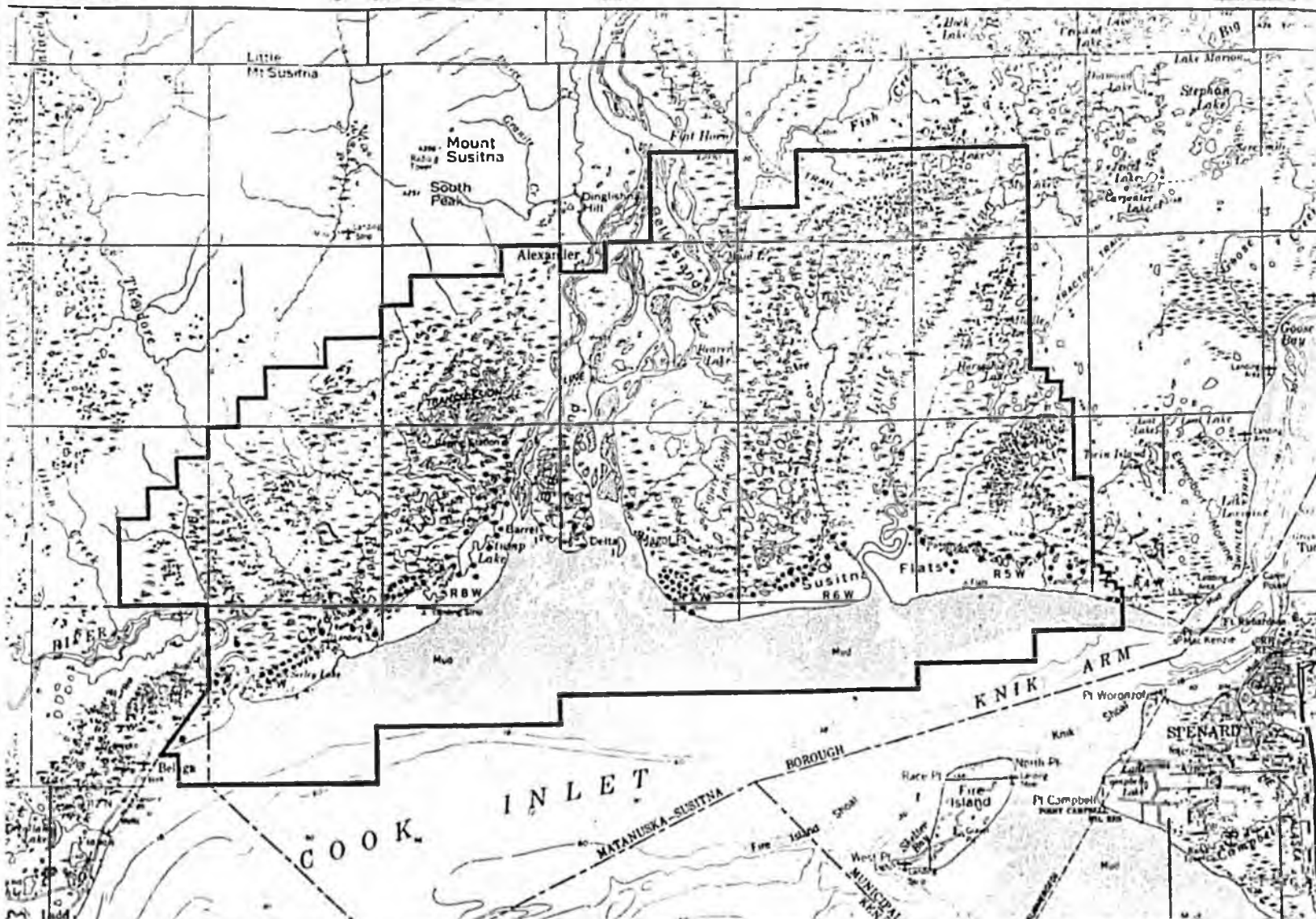


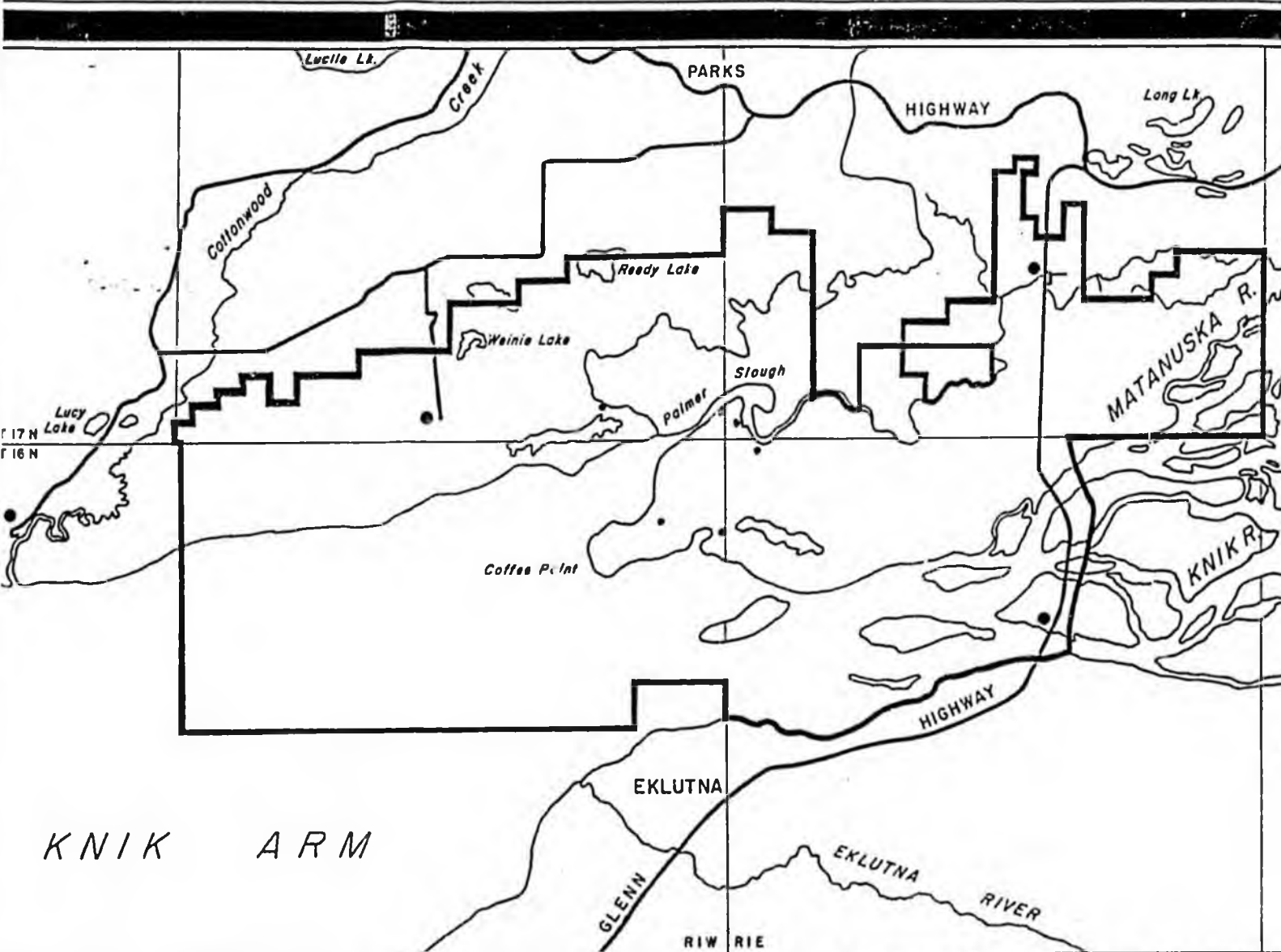
north

miles



scale 1:250,000

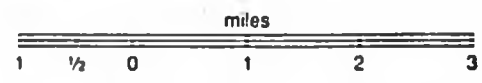




PALMER HAY FLATS State Game Refuge

- year established 1975
(expanded 1985)
- purpose to protect natural
habitat and game
populations (espe-
cially waterfowl)
- lands involved State lands, tide-
lands, and sub-
merged lands
- major access
locations shown with a ●

● cabins



scale 1:79,200

KNIK ARM



Tanana Valley Sportsmen's Association

INCORPORATED

P.O. Box 669

Fairbanks, Alaska 99707

Phone 479-3367

February 3, 1987

FEB - 9 1987

State of Alaska
Box V
Juneau, Alaska 99811
Attention - Senator Coghill

Dear Senator Coghill:

The Tanana Valley Sportsmen's Association is solidly in support of Senate Bill No. 41. The Association unanimously supported similar legislation last session. Our association favored December 31, 1968 as the cut-off date for historic use and occupancy. We will bring SB 41 before the club at the next meeting February 10th or refer the bill to the legislative committee for action.

In addition we will make note of SB 41 in our monthly newsletter and encourage our members to make their feelings known to the Senate.

Sincerely,

Oliver E. Burris
Vice President

cc - Senator Don Bennett