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SENATE COMMITTEE REPORT

FURTHER:

FINANCE

3/11/87

DATE TURNED INTO OFFICE _____

Mr. President:

RESOURCES _____ Committee considered _____ SB 55

establishing the Minto Flats State Game Refuge; efd.

and recommended:

replace with CS FOR SASS(res)) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

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

[Signature]
[Signature]
[Signature]

[Signature]
Chairman signature and recommendation

Committee Backup Attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

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

FURTHER RESOURCES
FINANCE

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

1/19/87
Mr. President:

DATE TURNED INTO OFFICE 3/11/87

COMMUNITY & REGIONAL AFFAIRS Committee considered SR 55

establishing the Minto Flats State Game Refuge; efd,

and recommended:

replace with CS SB 55 (C+RA) 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

Mike Spasund - outstanding legislation
[Signature]

Rick Helford NO REC.

Artis Sturgulovich
Chairman signature and recommendation

Committee Backup Attached

Do Pass

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CS (Resources) SB55
Publish Date: 4/10/87

REQUEST: _____

Revision Date: _____
Title: Hinto Flats State Game Refuge

Agency Affected: Fish and Game
BRU: Habitat

Sponsor: Senator Binkley
Requestor: _____

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL		0				
---------	--	---	--	--	--	--

REVENUE		0				
---------	--	---	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS						
OTHER						
TOTAL		0				

POSITIONS:

FULL-TIME		0				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Bruce H. Baker
Division: Habitat

Phone: 465-4100
Date: 4/10/87

Approved by Commissioner: Omne Olinevich
Agency: Fish and Game

Date: 4-10-87

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: CSSB 55 (CRA)
Publish Date: _____

Revision Date: Senate Resources
Title: Minto Flats Refuge

Agency Affected: Natural Resources
BRU: Land & Water Management

Sponsor: Binkley & Kerttula
Requestor: Senate Resources Committee

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)

The Department of Natural Resources currently manages this land. Changing its status is not expected to significantly increase management costs. Personnel already in the system will be used. The Department expects to manage this land in accordance with provisions of the current Tanana Basin Management Plan.

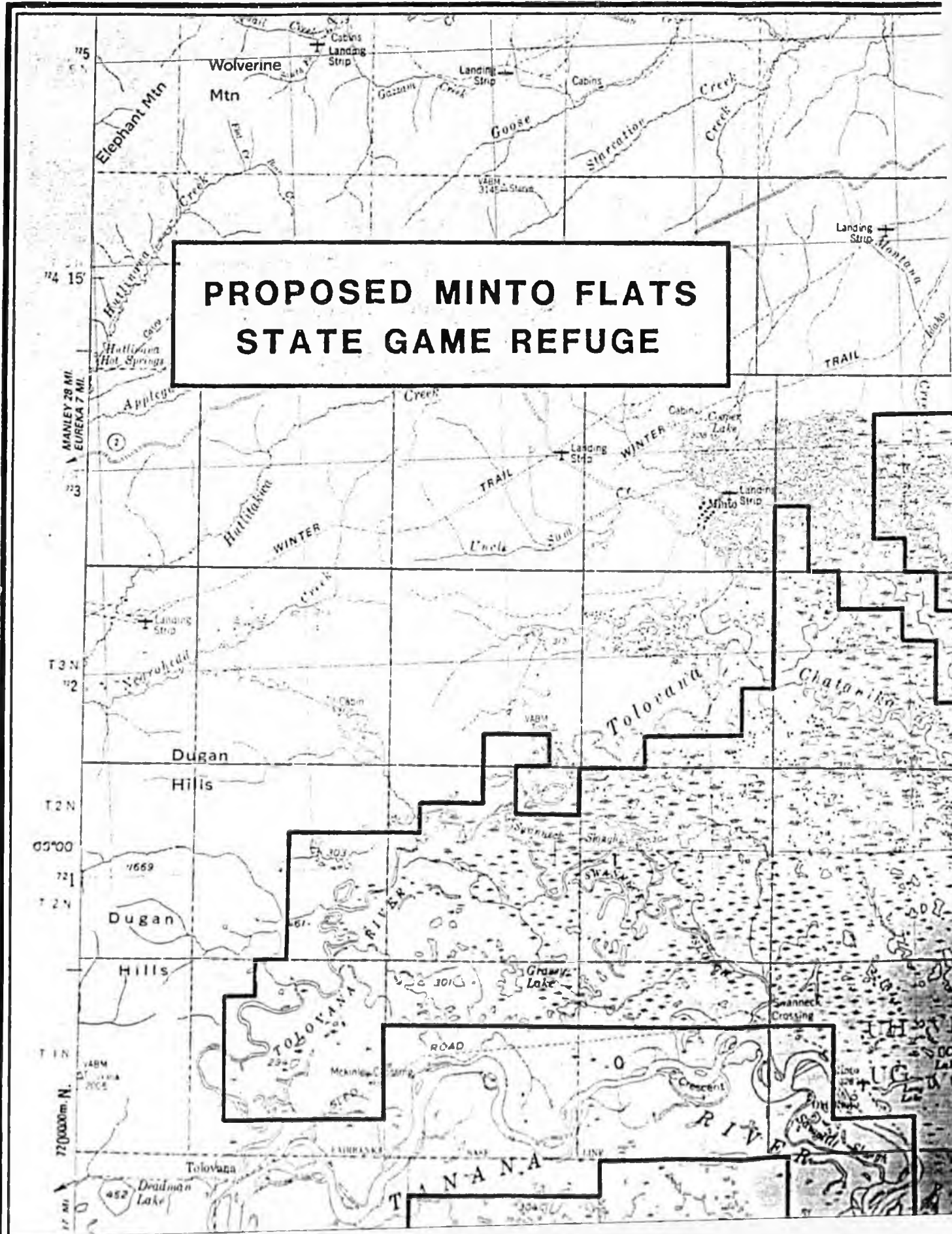
Prepared by: Andrew W. Bekovich Phone: 465-3400
Division: Land & Water Management Date: 04/13/87

Approved by Commissioner: Carol Wilton for TMB Date: 04/13/87
Agency: Department of Natural Resources

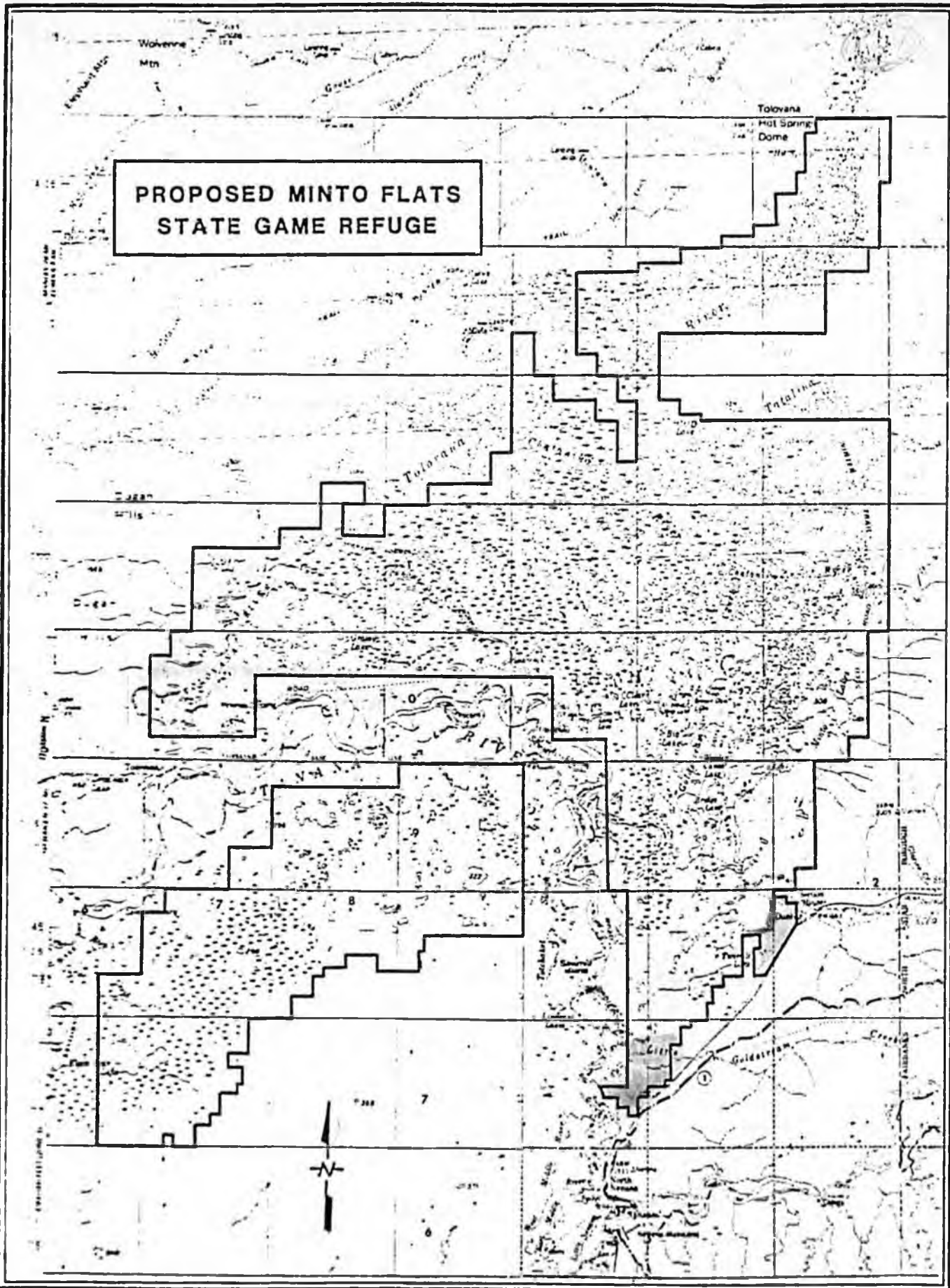
Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE

PROPOSED MINTO FLATS STATE GAME REFUGE



**PROPOSED MINTO FLATS
STATE GAME REFUGE**



5-0273L
Hein
4/9/87

Original sponsors: Binkley and Kerttula

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 55 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Minto Flats State Game
7 Refuge; and providing for an effective date."

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. 16.20.037. MINTO FLATS STATE GAME REFUGE. (a) The follow-
11 ing state-owned land and water is established as the Minto Flats State
12 Game Refuge:

- 13 (1) Township 1 North, Range 6 West, Fairbanks Meridian
14 Sections 2 - 11
15 Sections 14 - 23
16 Sections 26 - 34
- 17 (2) Township 1 North, Range 7 West, Fairbanks Meridian
18 Sections 1 - 36
- 19 (3) Township 1 North, Range 8 West, Fairbanks Meridian
20 Sections 1 - 16
21 Sections 21 - 28
22 Section 35: E1/2
23 Section 36
- 24 (4) Township 1 North, Range 9 West, Fairbanks Meridian
25 Sections 1 - 12
- 26 (5) Township 1 North, Range 10 West, Fairbanks Meridian
27 Sections 1 - 12
- 28 (6) Township 1 North, Range 11 West, Fairbanks Meridian
29 Sections 1 - 4

1 Sections 8 - 17

2 Sections 20 - 29

3 (7) Township 2 North, Range 6 West, Fairbanks Meridian

4 Sections 1 - 36

5 (8) Township 2 North, Range 7 West, Fairbanks Meridian

6 Sections 1 - 36

7 (9) Township 2 North, Range 8 West, Fairbanks Meridian

8 Sections 1 - 36

9 (10) Township 2 North, Range 9 West, Fairbanks Meridian

10 Sections 1 - 36

11 (11) Township 2 North, Range 10 West, Fairbanks Meridian

12 Section 3

13 Sections 8 - 10

14 Section 11: S1/2N1/2, S1/2

15 Section 12: S1/2N1/2, S1/2

16 Sections 13 - 36

17 (12) Township 2 North, Range 11 West, Fairbanks Meridian

18 Sections 13 - 15

19 Sections 22 - 27

20 Sections 34 - 36

21 (13) Township 3 North, Range 6 West, Fairbanks Meridian

22 Sections 13 - 36

23 (14) Township 3 North, Range 7 West, Fairbanks Meridian

24 Sections 6 - 8

25 Section 9: S1/2S1/2

26 Sections 13 - 36

27 (15) Township 3 North, Range 8 West, Fairbanks Meridian

28 Section 1

29 Sections 5 - 10

- 1 Sections 14 - 23
2 Sections 25 - 36
3 (16) Township 3 North, Range 9 West, Fairbanks Meridian
4 Section 24: S1/2
5 Section 25
6 Sections 33 - 36
7 (17) Township 3 North, Range 10 West, Fairbanks Meridian
8 Sections 34 - 35
9 (18) Township 4 North, Range 6 West, Fairbanks Meridian
10 Sections 2 - 9
11 Sections 16 - 21
12 (19) Township 4 North, Range 7 West, Fairbanks Meridian
13 Sections 1 - 4
14 Section 5: S1/2
15 Section 6: S1/2
16 Sections 7 - 24
17 Sections 30 - 31
18 (20) Township 4 North, Range 8 West, Fairbanks Meridian
19 Sections 10 - 15
20 Sections 22 - 27
21 Sections 30 - 31
22 Sections 35 - 36
23 (21) Township 5 North, Range 5 West, Fairbanks Meridian
24 Section 6: W1/2
25 Section 7: W1/2
26 Section 18: W1/2
27 (22) Township 5 North, Range 6 West, Fairbanks Meridian
28 Sections 1 - 3
29 Section 4: SE1/4

- 1 Section 9: E1/2
2 Sections 10 - 15
3 Section 16: E1/2, SW1/4
4 Section 20: S1/2
5 Sections 21 - 29
6 Sections 31 - 36
7 (23) Township 5 North, Range 7 West, Fairbanks Meridian
8 Section 35: SE1/4
9 Section 36: S1/2
10 (24) Township 1 South, Range 6 West, Fairbanks Meridian
11 Sections 5 - 8
12 Sections 17 - 20
13 Sections 29 - 31
14 (25) Township 1 South, Range 7 West, Fairbanks Meridian
15 Sections 1 - 36
16 (26) Township 1 South, Range 8 West, Fairbanks Meridian
17 Sections 1 - 2
18 Sections 11 - 14
19 Sections 23 - 26
20 Sections 35 - 36
21 (27) Township 1 South, Range 9 West, Fairbanks Meridian
22 Sections 1 - 36
23 (28) Township 1 South, Range 10 West, Fairbanks Meridian
24 Sections 7 - 36
25 (29) Township 1 South, Range 11 West, Fairbanks Meridian
26 Sections 25 - 26
27 Sections 35 - 36
28 (30) Township 2 South, Range 6 West, Fairbanks Meridian
29 Section 6: S1/2NW1/4, S1/2

- 1 Section 7: all North and West of the Alaska Railroad
2 right-of-way
- 3 Section 18: all North and West of the Alaska Railroad
4 right-of-way
- 5 Section 19: all North and West of the Alaska Railroad
6 right-of-way
- 7 (31) Township 2 South, Range 7 West, Fairbanks Meridian
8 Sections 1 - 12
- 9 Section 13: NE1/4, E1/2NW1/4, NE1/4SW1/4, S1/2SW1/4,
10 SE1/4
- 11 Section 14: W1/2
12 Sections 15 - 22
- 13 Section 23: W1/2
14 Section 24: all North and West of the Alaska Railroad
15 right-of-way
- 16 Section 27: NW1/4
17 Sections 28 - 32
- 18 Section 33: NE1/4NE1/4, W1/2NE1/4, W1/2, W1/2SE1/4
- 19 (32) Township 2 South, Range 8 West, Fairbanks Meridian
20 Section 1
21 Sections 12 - 13
22 Sections 24 - 25
23 Section 36
- 24 (33) Township 2 South, Range 9 West, Fairbanks Meridian
25 Sections 1 - 12
26 Section 17: W1/2NW1/4, NW1/4SW1/4
27 Section 18
28 Section 19: N1/2, N1/2S1/2
- 29 (34) Township 2 South, Range 10 West, Fairbanks Meridian

- 1 Sections 1 - 20
- 2 Section 21: NE1/4, W1/2
- 3 Section 22: NW1/4
- 4 Section 24: N1/2, N1/2S1/2
- 5 Sections 29 - 31
- 6 (35) Township 2 South, Range 11 West, Fairbanks Meridian
- 7 Sections 1 - 5
- 8 Sections 7 - 36
- 9 (36) Township 2 South, Range 12 West, Fairbanks Meridian
- 10 Sections 25 - 26
- 11 Sections 35 - 36
- 12 (37) Township 3 South, Range 7 West, Fairbanks Meridian
- 13 Section 5: N1/2NE1/4, W1/2
- 14 Sections 6 - 7
- 15 Section 18: NE1/4, W1/2, N1/2SE1/4, SW1/4SE1/4
- 16 (38) Township 3 South, Range 8 West, Fairbanks Meridian
- 17 Section 1
- 18 Section 12
- 19 Section 13
- 20 Section 22: NE1/4 (that portion above the ordinary
- 21 high water mark right bank Tanana River)
- 22 Section 23: N1/2, SE1/4
- 23 Section 24: N1/2, SW1/4
- 24 Section 25: NW1/4
- 25 (39) Township 3 South, Range 11 West, Fairbanks Meridian
- 26 Sections 2 - 10
- 27 Section 11: N1/2
- 28 Section 14: SW1/4NE1/4, S1/2NW1/4, SW1/4, W1/2SE1/4
- 29 Sections 15 - 21

Section 22: NE1/4, W1/2, W1/2SE1/4

Section 23: NW1/4

Section 27: W1/2NE1/4, NW1/4, W1/2SW1/4

Sections 28 - 31

Section 32: NE1/4, NW1/4, SE1/4

Section 33: W1/2

(40) Township 3 South, Range 12 West, Fairbanks Meridian

Sections 1 - 2

Sections 11 - 14

Sections 23 - 26

Sections 35 - 36

(b) The Minto Flats State Game Refuge is established to

(1) ensure the protection and enhancement of habitat;

(2) ensure the conservation of fish and wildlife; and

(3) guarantee the continuation of hunting, fishing, trapping and other uses by the public in a manner compatible with the protection and enhancement of habitat and the conservation of fish and wildlife.

(c) The state may not acquire by eminent domain privately owned land within the Minto Flats State Game Refuge, but may acquire privately owned land by purchase, exchange, or otherwise for inclusion in the Minto Flats State Game Refuge.

(d) The commissioner of natural resources and the commissioner of fish and game may not adopt regulations, impose conditions, or take other actions that restrict the use of land, water, or other natural resources upstream from or adjacent to the Minto Flats State Game Refuge in order to achieve the purposes set out in (b) of this section.

(e) Public access to the Minto Flats State Game Refuge by means

Added

1 of horse, boat, aircraft, dog team, snowmachine, or other means con-
2 sistent with (b) of this section may not be prohibited.

3 (f) Access to and from private property within the Minto Flats
4 State Game Refuge shall be guaranteed through access corridors estab-
5 lished through agreement between the Department of Natural Resources,
6 the Department of Fish and Game, and the private property owners
7 involved.

8 (g) The Department of Fish and Game and the Department of
9 Natural Resources shall exercise their respective authorities over the
10 Minto Flats State Game Refuge consistent with a management plan pre-
11 pared by the Department of Fish and Game in consultation with the
12 Department of Natural Resources.

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20 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).
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28
29

500-9348

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF FISH AND GAME

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

OFFICE OF THE COMMISSIONER

RAPIFAX TRANSMITTAL SHEET

To: Bruce Garrity
Sen. Coahills Office
Cap. Bldg - Rm 30

Date: 4.9.87

No. Pages 6

(following this page)

From: Kerry Howard
Habitat HQ

Message:

10/85

WHAT IS A STATE GAME REFUGE?

State game refuges are multiple use areas established by the legislature for the protection of productive fish and wildlife habitats and for the public's use and enjoyment.

Alaska Statute 16.20.020 states, "The purpose (of establishing state game refuges) is to protect and preserve the natural habitat and game population in certain designated areas of the state."

State game refuges have a history that is old as the State of Alaska itself. In 1960 the first two state game refuges, Izembek and Chagvan Bay (Cape Newenham), were set aside for waterfowl and shorebirds. Over the years, as one or another outstanding area came to the attention of Alaskans and their legislators, other state game refuge's were established.

Protection of fish and wildlife and their habitats and maintenance of public use is the primary focus of the Department of Fish and Game's game refuge management program. Activities which are encouraged and do not require a refuge permit include hunting, fishing, trapping, public access, recreational activities (hiking, skiing, horseback riding, dog team travel, camping, mountain climbing, etc.), boating, berry picking, firewood gathering (dead and down timber) and many others. Other land use activities are

allowed in a manner compatible with these primary values. These other activities which may impact primary uses are authorized through a special area permit system administered by the Habitat Division, Alaska Department of Fish and Game.

Multiple uses which pre-date creation of the refuge and multiple uses which fulfill important public needs for which there is no feasible alternative site are permitted on the refuge. But they must be conducted in a manner compatible with the fish and wildlife values and public use for which the area was established.

Why is it important to establish this area as a state game refuge? Each year the status of state lands changes dramatically. Some lands are sold; some lands are leased for development. Creating a state game refuge guarantees that the land will remain in public ownership and will be managed to maintain fish and wildlife populations.

Behind each one of our state game refuges are citizens who enjoy using the area and who helped to get the area designated a state game refuge. As the years go by many things will change, but through the foresight of Alaskans and their Legislatures, state game refuges will always remain for the wildlife, for the fish, and for the people to enjoy.

<u>REFUGE</u>	<u>ACTIVITY</u>	<u>DECISION</u>
Palmer Hay Flats	Personal Use Cabins (8)	Approved
Palmer Hay Flats	Pipeline Survey	Approved
Palmer Hay Flats	Natural Gas Pipeline	Approved
Palmer Hay Flats	Grazing Lease	Denied
Palmer Hay Flats	Gravel Fill and Bridge	Approved
Trading Bay	Personal Use Cabins (19)	Approved
Trading Bay	Negotiated Lease (Set Net Cabin)	Approved
Susitna Flats	Personal Use Cabin (111)	Approved
Susitna Flats	Gravel Mining	Approved
Susitna Flats	Negotiated Lease (3 Commercial Cabins)	Approved
Susitna Flats	Negotiated Lease (Set Net Cabin)	Approved

<u>REFUGE</u>	<u>ACTIVITY</u>	<u>DECISION</u>
Susitna Flats	Insect poisoning removal	Approved
Susitna Flats	Seismic Exploration	Approved
Susitna Flats	Negotiated Lease (Set Net Cabin)	Approved
Susitna Flats	Negotiated Lease (6 Commercial Cabins)	Approved
Susitna Flats	Gravel Mining	Approved
Susitna Flats	Transmission Line Upgrade	Approved
Susitna Flats	Bridge Repair/Log Jam Removal	Approved
Susitna Flats	Fisheries Research Station	Approved
Susitna Flats	Gas Wells/Pipeline	Approved
Susitna Flats	Gravel Extraction	Approved
Susitna Flats	Gravel Extraction	Denied

<u>RELIC</u>	<u>ACTIVITY</u>	<u>DECISION</u>
Susitna Flats	Pipeline Survey	Approved
Susitna Flats	Road Upgrade	Approved
Susitna Flats	Natural Gas Pipeline	Approved
Susitna Flats	Motorized Vehicle Use	Approved
Susitna Flats	Barge Landing	Approved
Susitna Flats	Storage Yard	Approved
Susitna Flats	Hydrological Research	Approved
Susitna Flats	Winter/Ice Road	Approved
Susitna Flats	Survey/Brush Clearing	Approved
Susitna Flats	Material Extraction	Denied
Susitna Flats	Transmission Line	Approved
Goose Bay	Leach Field Construction	Approved
Goose Bay	Seismic Exploration	Approved

<u>REFUGE</u>	<u>ACTIVITY</u>	<u>DECISION</u>
Goose Bay	Road and Utility Corridor Construction	Approved
Potter Point	Erosion Control Outfall/ Stilling Basin	Approved
Potter Point	Roadway/Parking Area	Approved
Izembek	Gravity Survey	Approved
Mendenhall Wetlands	Buried Sewer Outfall Line	Approved
Mendenhall Wetlands	Airport Maintenance	Approved
Mendenhall Wetlands	Salmon Rearing Pens	Approved
Mendenhall Wetlands	Stream Channel Alternation	Denied
Mendenhall Wetlands	Log Transfer and Storage	Approved

DRAFT AMENDMENTS TO SB 55 MINTO FLATS STATE GAME REFUGE

(B) THE MINTO FLATS STATE GAME REFUGE IS ESTABLISHED TO ENSURE

- (1) THE PROTECTION AND ENHANCEMENT OF HABITAT;
- (2) THE CONSERVATION OF FISH AND WILDLIFE; AND
- (3) TO GUARANTEE THE CONTINUED USE AND ENJOYMENT BY THE PUBLIC OF HUNTING, FISHING, TRAPPING, AND OTHER USES CONDUCTED IN A MANNER COMPATIBLE WITH THE THE PROTECTION OF HABITAT AND THE CONSERVATION OF FISH AND WILDLIFE; ACCORDING TO THE CONSTITUTION OF THE STATE OF ALASKA.

(C) THE STATE MAY NOT ACQUIRE BY EMINENT DOMAIN PRIVATELY OWNED LAND WITHIN THE MINTO FLATS STATE GAME REFUGE, BUT MAY ACQUIRE PRIVATELY OWNED LAND BY PURCHASE, EXCHANGE, OR OTHERWISE FOR INCLUSION IN THE MINTO FLATS STATE GAME REFUGE.

NEW SECTION

(D) THE STATE WHEN ESTABLISHING A MANAGEMENT PLAN FOR THE REFUGE MAY NOT, OR FOR LACK OF A MANAGEMENT PLAN FOR THE REFUGE MAY NOT, ADOPT OR RECOMMEND, REGULATIONS, STIPULATIONS, PERMITS, OR OTHER RESTRICTIONS ON THE USE OF LAND, WATER, OR LAND AND WATER PESOURCES OUTSIDE, UPSTREAM, OR ADJACENT TO, THE REFUGE IN ORDER TO FULFILL (B) OF THIS SECTION.

(E) PUBLIC ACCESS TO THE MINTO FLATS STATE GAME REFUGE BY MEANS OF HORSE, BOAT, AIRCRAFT, DOG TEAM, SNOWMACHINE, OR OTHER MEANS CONSISTENT WITH (B) (3) OF THIS SECTION, MAY NOT BE PROHIBITED.

(F) ACCESS TO AND FROM [REASONABLE INGRESS TO AND EGRESS FROM] PRIVATE PROPERTY WITHIN THE MINTO FLATS STATE GAME REFUGE SHALL BE GUARANTEED THROUGH ACCESS CORRIDORS ESTABLISHED THROUGH AGPEEMENT BETWEEN THE DEPARTMENT OF NATURAL RESOURCES, THE DEPARTMENT OF FISH AND GAME, AND THE PRIVATE PROPERTY OWNER(S) INVOLVED.

(G) [SAME WORDING AS IN (F) OF CS.]

(H) THE MINTO FLATS STATE GAME REFUGE MANAGEMENT PLAN [THE COMMISSIONER OF FISH AND GAME] SHALL RECOGNIZE THE EXISTENCE OF HISTORIC TRAILS AND SHALL PROVIDE ACCESS ACROSS THE REFUGE TO THE EXTENT CONSISTENT WITH (B) OF THIS SECTION.

NEW SECTION

(I) THE AUTHORITIES OF AS 41.17.230 SECTION (E) SHALL BE RETAINED BY THE COMMISSIONER OF NATURAL RESOURCES, CONSISTENT WITH SECTION (B) OF AS 16.20.037.

Grammar

problem

OK

Minto Flats

*superfluous
in what
way has*

OK

OK

*OLD H
OUT
New H*

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
Page 2

the two departments 1/ have complementary statutory authorities in that each has separate, independent permitting authority, as well as other responsibilities which are to be carried out in conjunction with or after consultation with the other department. (The attached chart summarizes the authorities of DNR and ADF&G in special areas.) In addition, for activities located in or affecting the coastal zone, both departments must implement their authorities in a manner consistent with the Alaska Coastal Management Program. This opinion follows the following outline:

I.	Introduction	page 1
II.	The statutory framework	page 3
	A. Special areas	page 3
	B. DNR general authorities	page 6
	C. DNR authorities specific to special areas	page 13
	D. ADF&G authorities in special areas	page 15
	E. Coastal zone consistency review	page 21
III.	Prior attorney general opinions	page 24
IV.	Interaction between DNR and ADF&G authorities	page 27

1/ As discussed later in this memorandum, ADF&G and the Boards of Fisheries and Game each have been delegated slightly different authorities in special areas. Those will be outlined in detail, but throughout this opinion, the combined authorities will be generally referred to as belonging to ADF&G. In addition, the Commissioner of ADF&G will be referred to as "ADF&G."

A. Consultation requirements	page 28
B. Nature of separate, complementary authorities	page 30
C. Separate, complementary authorities in sanctuaries	page 31
D. Separate, complementary authorities in refuges and critical habitat areas	page 32
E. Water appropriation and use	page 37
F. Prohibition on transfer of state land out of refuges	page 39
G. Summary and examples	page 42
V. Specific questions from DNR and ADF&G	page 45
VI. Conclusion	page 52
Chart summarizing DNR/ADF&G authorities in special areas	attached

II. THE STATUTORY FRAMEWORK

There are several different sets of statutory provisions relevant to this matter, and they will be discussed by category: those setting up the special areas, those setting out DNR's general authorities, those setting out DNR's authorities specific to special areas, those setting out ADF&G's authorities in special areas, and those describing the coastal zone consistency review procedure.

A. Special areas

In AS 16.20, the legislature created three categories of special geographic areas which are the main subject of the related questions posed by DNR and ADF&G: game refuges, game

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

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sanctuaries, and fish and game critical habitat areas. Each has similar purposes, but the statutory provisions establishing each vary somewhat.

The purpose of state game refuges 2/ is to "protect and preserve the natural habitat and game population[s] in certain designated areas of the state." AS 16.20.020. 3/

Two game sanctuaries have been established, the Walrus Islands state game sanctuary and the McNeil River state game sanctuary, both consisting of the land described in the statute and adjacent state waters. AS 16.20.110 and AS 16.20.160. 4/ The purpose of the sanctuaries is "to protect" the game found

2/ The state game refuges include 17 units which had been in the national wildlife refuge system at the time Alaska achieved statehood, and the tide and submerged land adjacent to two of the units. AS 16.20.030(a). Seven other units are also encompassed, comprised of the state-owned land and adjacent water in the Potter Point state game refuge, AS 16.20.030(b), the Goose Bay state game refuge, AS 16.20.030(c), the Palmer Hay Flats state game refuge, AS 16.20.032, the Mendenhall Wetlands state game refuge, AS 16.20.034, the Susitna Flats state game refuge, AS 16.20.036, the Trading Bay state game refuge, AS 16.20.038, and Creamer's Field migratory waterfowl refuge, AS 16.20.039.

3/ The legislature established additional purposes for three of the refuges: to protect specific fish and wildlife populations and habitats, and also to protect public uses, including viewing, photography, and recreation in a high quality environment. AS 16.20.036(b) (Susitna Flats), AS 16.20.038(b) (Trading Bay), and AS 16.20.039(c) (Creamer's Field).

4/ We are informed that the land described in the two sanctuaries is all state owned.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
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therein, and their "vital habitat ... so that these resources may be preserved for scientific, esthetic and educational purposes." AS 16.20.100; sec. 1, ch. 108, SLA 1967.

The purpose of fish and game critical habitat areas is "to protect and preserve habitat areas especially crucial to the perpetuation of fish and wildlife, and to restrict all other uses not compatible with that primary purpose." AS 16.20.220. 5/

Although the stated purposes for the special areas specify protection and preservation of fish and wildlife 6/ and their habitat, the legislature clearly did not intend them to remain untouched and unused. For game refuges, a number of approved uses are specifically listed in the statutes. 7/ Within game sanctuaries, oil and mineral exploration and

5/ Twelve fish and game critical habitat areas are established in AS 16.20.230: Port Moller, Port Heiden, Cinder River, Egegik, Pilot Point, Kalgin Island, Fox River Flats, Chilkat River, Kachemak Bay, Clam Gulch, Copper River Delta, and Anchor River and Fritz Creek. Except for the most recently designated fish and game critical habitat area, all land, including privately owned land, within the described areas is included. Anchor River/Fritz Creek critical habitat area is the exception and contains only the state land and water within the described area. AS 16.20.230(12).

6/ The terms "game" (used in reference to refuges, AS 16.20.020, and sanctuaries, AS 16.20.100) and "wildlife" (used in reference to critical habitat areas, AS 16.20.220) appear to mean the same thing. The definition of "game" in AS 16.05.940(14) is very broad, encompassing virtually "any species of bird, reptile, and mammal... found or introduced in the state."

7/ For example, in the Mendenhall Wetlands state game refuge,
(Footnote continued)

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development are authorized, subject to certain requirements and limitations which will be discussed later. AS 16.20.130, AS 16.20.140, and AS 16.20.170. Within the most recently established fish and game critical habitat area, Anchor River/Fritz Creek, the use and appropriation of water rights for a municipal and community water source are specifically protected, and the possibility of constructing a dam and reservoir is specifically reserved. AS 16.20.230(b).

In summary, the legislature created the special areas to protect fish and game and their habitat, but not to exclude all other uses of the areas.

B. DNR general authorities

The Alaska Land Act, AS 38.05, grants to DNR a number of responsibilities and authorities over land in the state. The

(Footnote continued)

hunting and recreational activities are "expressly permitted," if consistent with a plan adopted by ADF&G, and authorized by the Board of Game. AS 16.20.034(e) and (f). Gravel extraction is also allowed, subject to the ADF&G plan. AS 16.20.034(h). Acquisition by the City and Borough of Juneau of refuge land for expansion of the municipal airport, establishment of additional transportation corridors, and establishment of publicly owned and operated docking facilities, is provided for. AS 16.20.034(i). In the Susitna Flats state game refuge, entry for exploration and development of oil and gas resources is permitted if compatible with protection and public uses of fish and wildlife habitat and populations. AS 16.20.036(b) and (c). Similar provisions apply to the Trading Bay state game refuge. AS 16.20.038(b) and (c). In the Creamer's Field migratory waterfowl refuge, recreational and agricultural activities are expressly permitted if consistent with ADF&G's plan to promote the protection and enhancement of habitat for migratory birds and opportunities for viewing. AS 16.20.039(c) and (d).

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The Alaska Land Act, AS 38.05, grants to DNR a number of responsibilities and authorities over land in the state. The authority of the commissioner of DNR includes the power to establish procedures and adopt necessary regulations, enter into agreements, review orders or actions of the division of land and water management (originally the "division of lands"), and exercise other powers and do other acts necessary under the Alaska Land Act. AS 38.05.020. Under AS 38.05.005, the commissioner of DNR controls and supervises the division of land and water management, which has, under AS 38.05.035, a number of mandatory and discretionary duties 8/ regarding the overall

8/ The mandatory duties are described in AS 38.05.035(a) and include the responsibility to:

(2) manage, inspect and control state land and improvements on it belonging to the state and under the jurisdiction of the division:

...

(4) prescribe application procedures and practices for the sale, lease or other disposition of available land, resources, property, or interest in them;

...

(6) ... issue deeds, leases or other conveyances disposing of available land, resources, property or any interests in them;

(7) have jurisdiction over state land, except
(Footnote continued)

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management, retention, and disposal of state land. In addition, the Alaska Land Act contains other specific provisions relating

(Footnote continued)

that land acquired by the Alaska World War II Veterans Board and the Agricultural Loan Board or other departments or agencies succeeding to their respective functions through the foreclosure or default; to this end the director possesses the powers and, with the approval of the commissioner, shall perform the duties necessary to protect the state's rights and interests in state lands, including the taking of all necessary action to protect and enforce the state's contractual or other property rights;

...

(9) maintain such records as the commissioner considers necessary...

...

(12) be the certifying agent of the state to select, accept and secure by whatever action is necessary in the name of the state, by deed, sale, gift, devise, judgment, operation of law, or other means any land, of whatever nature or interest, available to the state; and be the certifying agent of the state, to select, accept or secure by whatever action is necessary in the name of the state any land, or title or interest to land available, granted, or subject to being transferred to the state for any purpose

The discretionary duties include granting preference rights for lease or purchase of state land in certain circumstances, selling and disposing of land by lottery in certain circumstances, and quit-claiming land to the federal government if it was erroneously conveyed from the federal government to the state. AS 38.05.035(b).

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to DNR's duties and authorities. 9/

The Water Use Act, AS 46.15, grants to DNR the authority to determine and adjudicate rights in state waters, and in its appropriation and distribution. AS 46.15.010. This responsibility is accompanied by a mandate to adopt necessary procedural and substantive regulations, taking into account the statutory responsibilities of ADF&G and the Department of Environmental Conservation. AS 46.15.020. The statutes set out a number of guidelines which direct how DNR handles water appropriation. 10/

Thus, the Water Use Act and the Alaska Land Act grant DNR many authorities over state water and land. 11/ These authorities must be exercised in a manner consistent with the

9/ For example, sale of land is covered by AS 38.05.045 -- AS 38.05.069. Leasing of lands other than for extraction of natural resources is governed by AS 38.05.070 -- AS 38.05.105, disposal of timber and materials by AS 38.05.110 -- AS 38.05.120, leasing of mineral lands by AS 38.05.135 -- AS 38.05.184, and mining rights by AS 38.05.185 -- AS 38.05.275.

10/ For example, the determination of priority is generally governed by AS 46.15.050, existing rights by AS 46.15.060 and AS 46.15.065, criteria for permit issuance by AS 46.15.080, preferred uses by AS 46.15.090 and AS 46.15.150, and transfers of appropriations by AS 46.15.160 and AS 46.15.170.

11/ The Department of Transportation and Public Facilities and the Board of Regents of the University of Alaska are specifically excepted from the provisions of the Alaska Land Act and can acquire, use, lease, dispose of, or exchange real property independently from DNR, to the extent permitted by their own enabling legislation. AS 38.05.030.

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state constitution and with the guidelines set out in the statutes. For example, AS 38.05.285 mandates that disposal and use of state land shall conform to the state constitution and "the principles of multiple purpose use consistent with the public interest." Although "multiple purpose use" is not defined, "multiple use" is defined in AS 38.04.910(4) as

the management of state land and its various resource values so that it is used in the combination that will best meet the present and future needs of the people of Alaska, making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; it includes

(A) the use of some land for less than all of the resources, and

(B) a combination of balanced and diverse resource uses that takes into account the short-term and long-term needs of present and future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historic values

The requirement that disposal and use of state land take into account the present and future needs for natural resources is consistent with article VIII, sections 1 and 2, of the Alaska Constitution, which declare that the state's policy is to encourage settlement of land and development of resources by "making them available for maximum use consistent with the public interest," and that the legislature shall provide for the

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utilization, development and conservation of state land "for the maximum benefit" of Alaskans. These sections are augmented by article VIII, section 4, which directs that fish and wildlife be "utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses."

There are other relevant provisions of the state constitution that affect the exercise of DNR's (and ADF&G's) authority. For example, article VIII, section 7, provides that the legislature may reserve from the public domain "areas of natural beauty or of historic, cultural, recreational, or scientific value" for the "use, enjoyment, and welfare of the people." Another example is article VIII, section 13, which mandates that, except for the public water supply, "an appropriation of water shall be ... subject ... to the general reservation of fish and wildlife."

In setting out DNR's authorities, the legislature has recognized Alaska's unique constitutional mandates regarding fish and wildlife and their habitat. For example, in AS 38.04.005(b), the legislature directs that, in making state land available for private use, adverse effects on significant resources, including wildlife and fishery resources, must be minimized. Further, in AS 38.04.015 the legislature lists protection of "critical wildlife habitat and areas of special scenic, recreational, scientific, or other environmental concern" as one of the five

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primary public interests in retaining areas of state land in public ownership. In carrying out its responsibility to classify state land, DNR has recognized this concern and has established "wildlife habitat land" as one of the classification categories. Described in 11 AAC 55.230, wildlife habitat land is land primarily valuable for fish and wildlife production or "a unique or rare assemblage" of one or more species. With regard to water, DNR must always consider the effect on fish and game resources in making its public interest determination as a component of reviewing water appropriation permit applications. AS 46.15.080 (b)(3). This is consistent with article VIII, section 13, and is in addition to the ability of DNR, after adjudicating a request from ADF&G, to reserve a specified instream flow or level of water under AS 46.15.145 for protection of fish and wildlife habitat, migration, and propagation, which in adjudicating later claims is treated by DNR as a prior appropriation under AS 46.15-.080(a)(1).

Thus, DNR has broad authority over almost all state-owned land, including the authority to acquire, hold, and transfer. These authorities are to be exercised not in a vacuum, but under constitutional and statutory directives to promote various policies. For example, as discussed above, (1) all natural resources, including land, wildlife and fisheries, shall be available for the maximum use consistent with the public

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bodies of water adjacent to the Juneau municipal airport runway to eliminate sites attractive to waterfowl which could create hazards to aircraft. AS 16.20.034(h). Any deed, contract of sale, lease, or other instrument evidencing disposition by DNR of land in the Mendenhall Wetlands game refuge must include a condition that the land is restricted for three specified purposes (airport expansion, transportation corridors, and docking facilities). AS 16.20.034(i). Finally, DNR and ADF&G are to jointly evaluate any offer of proof by the City and Borough of Juneau that there is a superior public need for use of land within the Mendenhall Wetlands game refuge, other than as refuge land. AS 16.20.034(j).

With regard to the two state game sanctuaries, there are also explicit references to DNR authority. DNR may not sell sanctuary land, and may lease it only as mineral land pursuant to DNR regulations. AS 16.20.140 and AS 16.20.170. DNR and ADF&G are authorized to jointly determine limitations additional to state or federal laws and regulations on oil and mineral exploration and development in the sanctuaries, to assure compatible multiple land use practices. AS 16.20.130 and AS 16.20.170.

There is one direct reference to DNR in the statutes governing critical habitat areas. In the recently established Anchor River/Fritz Creek critical habitat area, ADF&G is to develop, in consultation with DNR, a plan for the area to be

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interest, (2) natural resources shall be utilized for the maximum benefit of the people of the state, (3) the value of fish and wildlife shall be recognized and maintained, and (4) adverse effects upon them shall be minimized. DNR must balance competing interests and policies and, in disposing of any interest in land, is required to determine if the disposal is in the best interest of the state. AS 38.05.035(e).

C. DNR authorities specific to special areas

Apart from DNR's general authorities and responsibilities with regard to state-owned land, a number of specific provisions in AS 16.20 address DNR's authority in special areas.

DNR may adopt zoning regulations for private land contained within the Potter Point, Goose Bay, Palmer Hay Flats, Susitna Flats, and Trading Bay game refuges. AS 16.20.030(b) and (d), AS 16.20.032(d), AS 16.20.036(e), and AS 16.20.038(e). Access corridors to and from private property within the Goose Bay, Susitna Flats, and Trading Bay game refuges are to be established through agreement between DNR, ADF&G, and the private property owners involved. AS 16.20.030(e), AS 16.20.036(f), and AS 16.20.038(f). In the Mendenhall Wetlands game refuge, management of the surface and subsurface estate is explicitly delegated to DNR, although any DNR actions which affect the habitat must conform to a plan adopted by ADF&G. AS 16.20.034(g). DNR and ADF&G are both required to assist the City and Borough of Juneau in filling

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submitted to the legislature.

Thus, in addition to its general powers, DNR is specifically mentioned in the statutes governing special areas. Some of those specific references assign particular tasks, some grant discretionary authority, and others limit the general authorities.

D. ADF&G authorities in special areas

In the special areas, the legislature has in AS 16.20 given certain authorities to ADF&G and the Boards of Fisheries and Game ("boards"). The authorities for each type of special area are set out somewhat differently.

In game refuges, the Board of Game is to adopt regulations governing the taking of game for "conservation and protection purposes." AS 16.20.040. On the other hand, ADF&G is delegated a different kind of authority. AS 16.20.050 provides:

Where the use, lease or disposal of real property in state game refuges created by AS 16.20.010 -- 16.20.080 is under the control or jurisdiction of the state, whether through federal permit or state ownership, the responsible state department or agency shall notify the commissioner of fish and game before initiating any use, lease or disposal of real property. The commissioner shall acknowledge receipt of notice by return mail.

The purpose of this notice is clarified by AS 16.20.060, which

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grants authority 12/ to ADF&G to ensure protection of fish and game:

If the commissioner so determines, the commissioner shall, in the letter of acknowledgment, require the person or governmental agency to submit full plans for the anticipated use, full plans and specifications of proposed construction work, complete plans and specifications for the proper protection of fish and game, and the approximate date when the construction work is to commence, and shall require the person or governmental agency to obtain the written approval of the commissioner as to the sufficiency of the plans or specifications before construction is commenced. The commissioner shall abide by the principle which recognizes preferences among beneficial uses as more particularly set forth in art. VIII of the state constitution.

As discussed in detail in section IV below, this provision gives ADF&G permit authority over any activity on refuge lands which ADF&G determines may affect fish or wildlife or their habitat. 13/ This authority is separate from and in

12/ In addition to the provisions of AS 16.20.050 and AS 16.20.060, which apply to all the refuges, in at least two of the refuges ADF&G is mandated to develop a plan to further the purposes of the refuges. The plan is to be used to determine whether certain activities are consistent with those purposes. AS 16.20.034(g) (Mendenhall Wetlands) and AS 16.20.039(c) (Creamer's Field).

13/ In this opinion, terms like "may affect" will be used to refer to ADF&G's authority to require plans, which is triggered by a determination of possible effects on fish, game, or habitat. Permit restrictions or denials by ADF&G must be based on facts supporting a conclusion that there is a reasonably likely connection between an activity and probable adverse effects on fish, game, or habitat.

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addition to any review and approval responsibilities held by DNR.

The authorities in critical habitat areas are similar to those in refuges. Under AS 16.20.240, the boards are to adopt regulations governing taking of fish and game for "conservation and protection purposes." As for refuges, ADF&G is to receive notice of any anticipated use, lease, or other disposal of land; 14/ but unlike in refuges, land in private ownership is included in critical habitat areas, and activities involving private land as well as state land must be brought to the attention of ADF&G. Further, while in refuges ADF&G determines if additional information should be submitted, in critical habitat areas the boards have that authority. 15/

14/ Under AS 16.20.250:

Before the use, lease or other disposal of land under private ownership or state jurisdiction and control, within state fish and game critical habitat areas created under this chapter, the person or responsible state department or agency shall notify the commissioner of fish and game. The commissioner shall acknowledge receipt of notice by return mail.

15/ AS 16.20.260 provides:

(a) When a board determines that the following information is required, it shall instruct the commissioner, in the letter of acknowledgment, to require the person or governmental agency to submit:

(Footnote continued)

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The two statutory procedures for notice and submission of additional plans and specifications for game refuges and for critical habitat areas are similar to the structure established for ADF&G's review of projects in anadromous fish streams. 16/

(Footnote continued)

- (1) full plans for the anticipated use;
 - (2) full plans and specifications of proposed construction work;
 - (3) complete plans and specifications for the proper protection of fish and game; and
 - (4) the approximate date when the construction or work is to commence.
- (b) The board shall require the person or governmental agency to obtain the written approval of the commissioner as to the sufficiency of the plans or specifications before construction is commenced.

16/ AS 16.05.870 provides:

(a) The commissioner shall, in accordance with the Administrative Procedure Act (AS 44.62), specify the various rivers, lakes and streams or parts of them that are important for the spawning, rearing or migration of anadromous fish.

(b) If a person or governmental agency desires to construct a hydraulic project, or use, divert, obstruct, pollute, or change the natural flow or bed of a specified river, lake, or stream, or to use wheeled, tracked, or excavating equipment or log-dragging equipment in the bed of a specified river, lake, or stream, the person or governmental agency shall notify the commissioner of this intention before the beginning of the construction or use.

(Footnote continued)

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Under AS 16.05.870, a person desiring to use an anadromous fish stream in certain specified ways must notify ADF&G, which can require additional information. The plans and specifications are then evaluated to determine whether they are sufficient for proper protection of fish and game. Just as in refuges and

(Footnote continued)

(c) The commissioner shall acknowledge receiving the notice by return first class mail. If the commissioner determines that the following information is required, the letter of acknowledgement shall require the person or governmental agency to submit to the commissioner:

(1) full plans and specifications of the proposed construction or work;

(2) complete plans and specifications for the proper protection of fish and game in connection with the construction or work, or in connection with the use; and

(3) the approximate date the construction, work, or use will begin.

(d) The commissioner shall approve the proposed construction, work, or use in writing unless the commissioner finds the plans and specifications insufficient for the proper protection of fish and game. Upon a finding that the plans and specifications are insufficient for the proper protection of fish and game, the commissioner shall notify the person or governmental agency which submitted the plans and specifications of that finding by first class mail. The person or governmental agency may, within 90 days of receiving the notice, initiate a hearing under AS 44.62.370. The hearing is subject to AS 44.62.330 -- 44.-62.630.

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critical habitat areas, written approval is required before the activity can commence.

In refuges and critical habitat areas, as well as for anadromous streams, ADF&G's conditioning or denial of a permit is limited to the probability of adverse impacts on fish, game or habitat. In contrast, DNR must balance effects on fish, game, or habitat as one of many, sometimes competing, factors in deciding under AS 38.05.035(e) whether a land disposal best serves the state's interests, a policy decision subject to very limited judicial review. Hammond v. North Slope Borough, 645 P.2d 750, 758 - 759 (Alaska 1982).

For sanctuaries, the statutory framework is quite different. The legislature in AS 16.20.120 delegated to the boards the broader authority to adopt regulations for sanctuaries governing

entry, development, construction, hunting, fishing, and all other uses or activities not in conflict with AS 16.20.130 and 16.20.140 for the purpose of preserving the natural habitat and the fish and the game of the Walrus Islands State Game Sanctuary.

This also applies to the other sanctuary, at McNeil River. AS 16.20.170. Land in neither sanctuary may be sold, and under AS 16.20.140 may be leased only as mineral land, as authorized in DNR regulations. Oil and mineral exploration and development are subject to state and federal laws and regulations and additional

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limitations jointly determined by ADF&G and DNR. 17/ (In developing additional limitations, ADF&G is governed by its statutory charge with regard to fish, game, or their habitat, while DNR again operates under the best-interest-of-the-state standard in AS 38.05.035(e).)

E. Coastal zone consistency review

Any exercise of authority by a state agency in the state's coastal zone 18/ must be consistent with the Alaska Coastal Management Program. AS 46.40.090(a), 46.40.100(a). For activities occurring in the state's coastal zone for which two or more state permits (or a federal permit or authorization) are required, a process is in place for coordinating permit applications between or among the relevant state agencies and

17/ AS 16.20.130 provides:

Oil and mineral exploration and development is permitted on the Walrus Islands State Game Sanctuary in accordance with state or federal laws and regulations, subject to the limitations of AS 16.20.140 and to additional limitations jointly determined by the commissioner of natural resources and the commissioner of fish and game to assure compatible multiple land use practices.

18/ Pursuant to 6 AAC 85.040, the boundaries of the coastal zone are initially based on Biophysical Boundaries of Alaska's Coastal Zone, incorporated by reference and described in the regulation, including the zones of direct interaction and direct influence, and may be modified consistent with specified guidelines by each coastal resource district in an approved district plan.

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rendering an overall determination, after which the state permits are either all issued (with appropriate conditions) or denied by the respective state agencies. 6 AAC 50. This procedure applies, then, to any activity in the coastal zone over which both DNR and ADF&G have permitting authority.

The Alaska Coastal Management Program ("ACMP") is, in effect, pursuant to AS 46.40.010 -- AS 46.40.210 and the federal Coastal Zone Management Act, 16 USC § 1451 et seq., and governs activities or uses located in or possibly affecting the coastal zone. The objectives of the ACMP include ensuring "the use, management, restoration and enhancement of the overall quality of the coastal environment," "the orderly, balanced utilization and protection of the resources of the coastal area consistent with sound conservation and sustained yield principles," and "the full and fair evaluation of all demands on the land and water in the coastal area." AS 46.40.020(1), (3), and (8).

The ACMP consists of standards contained in 6 AAC 80 and the district coastal plans formulated and approved under AS 46.40 and 6 AAC 85, and covering subjects such as coastal development, recreation, habitats, and air, land, and water quality. Permits may not be issued for activities in or affecting the coastal zone that are inconsistent with the ACMP. AS 46.40.200, 6 AAC 80.010.

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Interagency review of activities under the ACMP occurs in the context of an entire project, which may require several separate permits. The Office of Management and Budget ("OMB") is responsible for rendering a conclusive consistency determination for projects requiring two or more permits, leases, or authorizations. AS 44.19.145(a)(11), 6 AAC 50.030.

The procedures controlling this coordination are set out in 6 AAC 50 and are designed to facilitate inter-agency communication and consensus, with provisions for elevating consideration of a project from the regional to the directors' level, and on to the commissioners' level, if necessary. 6 AAC 50.070. OMB is closely involved in the review and discussions, and is ultimately responsible for rendering a final consistency decision. 6 AAC 50.070 and 6 AAC 50.120. ^{19/} Within five days after that determination, the agencies must issue relevant permits (except leases), which must contain any conditions required by the consistency determination. 6 AAC 50.130.

ADF&G and the boards in combination have been given specific authorities in special areas, the significance and scope

^{19/} If only permits from a single state agency, and no federal permits, are required, that agency takes the place of OMB in coordinating state review and rendering a final consistency determination. 6 AAC 50.030, 6 AAC 50.120. In that role, the agency is charged by 6 AAC 50.070 with encouraging and facilitating discussion among the state resource agencies, listed in 6 AAC 50.190 as including the Department of Environmental Conservation as well as DNR and ADF&G.

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of which are discussed in more detail in sections III, IV, and V below. Where special areas are in the coastal zone, the ACMP and the consistency review procedures would apply to the exercise of those authorities, and provide a mechanism for inter-departmental coordination.

III. PRIOR ATTORNEY GENERAL OPINIONS

Over the last 10 years, this office has analyzed and commented upon DNR and ADF&G responsibilities within special areas in several informal and one formal opinion. A review of those opinions provides a background to the present analysis.

In 1976, Assistant Attorney General Peter Froehlich discussed the legal requirements necessary for ADF&G to grant or deny approval of a proposed use on a state game refuge. 1976 Inf. Op. Att'y Gen. (Oct 25; J-66-045-77). The memorandum concluded that, under the facts addressed, ADF&G had acted legally in disapproving plans for a proposed transmission line across the Palmer Hay Flats, state game refuge.

In 1979, Assistant Attorney General Thomas Meacham evaluated a preference right within the Kalgin Island critical habitat area that was granted by DNR without notification to and approval by ADF&G. 1979 Inf. Op. Att'y Gen. (Dec 27; A-66-254-80). The opinion concludes that the grant of the preference right could not be considered complete until ADF&G had been

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notified under AS 16.20.250. 20/

In 1980, Assistant Attorney General Thomas Meacham evaluated whether a land exchange between DNR and private land holders which resulted in state-owned land within the Potter Marsh state game refuge entering private ownership was invalid because ADF&G had not been notified under AS 16.20.050. 1980 Inf. Op. Att'y Gen. (Oct 9; A-66-022-81). The memorandum notes that apparently DNR was not aware at the time of the exchange that the lands were "under the jurisdiction" of ADF&G and thus completed the exchange without giving the required notice. The mistake was not discovered until nearly two years later. The opinion concludes that the private party held the status of a bona fide purchaser, and that equity would not allow the exchange to be overturned because of a jurisdictional mistake made by a state agency which was in no way the fault of the private party.

20/ The opinion also notes in passing that the possible requirement for submission and approval of plans under AS 16.20.260 before construction is commenced would not bar the preference right and the conveyance. That observation may not be correct in all cases, since the requirement of notice to ADF&G in AS 16.20.250 would provide the opportunity for comment by ADF&G to DNR. Such statutorily mandated opportunities are not to be considered as merely a pro forma step that can be viewed lightly and avoided without consequence. See 1985 Inf. Op. Att'y Gen. (Sep. 11; 366-105-86), which discusses the need in each such situation to balance a number of factors, including the possibility of curing the neglected consultation and the relative potential harms, in determining the consequences of such a default.

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Thus, the analysis determined that ADF&G review was no longer authorized because the land had from the private party's perspective, apparently become private two years earlier, and only state-owned lands are included in refuges. 21/

In 1981, Assistant Attorney General Douglas Mertz noted that, in the Mendenhall Wetlands state game refuge, DNR and ADF&G both have "primary management authority, and hence necessarily decisionmaking authority," under AS 16.20.035(j). 1981 Inf. Op. Att'y Gen. (Nov 9; J-66-274-82). The memorandum addressed the fact that AS 16.20.034(j) specifies that both departments are granted final decision making authority over a request by the City and Borough of Juneau to use refuge land for another purpose.

In 1982, Assistant Attorney General Jonathan Tillinghast wrote a formal attorney general's opinion that discusses the authority of ADF&G and the boards to protect habitat. 1982 Op. Att'y Gen. No. 1 (Mar. 4). Most of that opinion deals with ADF&G's permit authority over anadromous streams, set out in AS 16.05.870, but the opinion also discusses permit jurisdiction in refuges, sanctuaries, and critical habitat

21/ As the more detailed analysis in section IV below concludes, in fact state land in refuges cannot be transferred in fee out of state ownership without specific legislative action.

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areas. At pages 3 through 4, the similar statutory format used for anadromous streams, refuges, and critical habitat areas is described. The analysis concludes that the notice and written approval provisions are clearly licensing statutes and that they had been regarded as such by the Department of Law for at least the preceding 18 years. The opinion notes that the statutory format is somewhat cumbersome and, at pages 9 through 12, concludes that the boards and ADF&G have the implied authority to adopt regulations implementing their respective permit programs. For anadromous streams, refuges, and critical habitat areas, that conclusion is based on implied powers. ^{22/} In sanctuaries, as noted in section II D above, the boards have explicit authority to adopt regulations "governing entry, development, construction, hunting, fishing, and all other uses or activities...." AS 16-.20.120. Thus, for the sanctuaries, there is express authority to adopt regulations, which necessarily includes the authority to require permits before entry.

IV. INTERACTION BETWEEN DNR AND ADF&G AUTHORITIES

From the similar questions we have been asked by DNR and ADF&G, and from other contact with the two agencies, it is apparent that considerable confusion exists over the interaction

^{22/} The Administrative Procedure Act recognizes in AS 44.62.030 that regulatory authority may be express or implied.

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between DNR and ADF&G authorities in special areas. Administrators are seeking guidance on when they are required to consult with their counterparts in the other department before making a decision. Further, they seek clarification of when they may make an independent decision for their department which is controlling, and when an independent decision from the other department is necessary as well for an activity to occur.

A. Consultation requirements

As discussed in section II B above, DNR has various statutory authorities and responsibilities with respect to state-owned land, such as acquisition, lease, and sale. In exercising those powers, DNR makes its own decisions. However, in some cases when making its decisions DNR is required by statute to consult with ADF&G regarding the proposed action, although the ultimate decision rests with DNR. For example, under AS 38.50-.010, DNR is authorized to exchange state land or interests in state land for other land, interest in land, or other consideration. However, "if land under the jurisdiction of a state agency other than the Department of Natural Resources may be involved," AS 38.50.090(a) requires DNR to "afford the head of that agency an opportunity to participate in the discussions respecting the lands." The Department of Law has previously concluded that this provision requires consultation with ADF&G when exchanges of interest in refuge land are being considered. 1980 Inf. Op.

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Att'y Gen. (Oct 9; A-66-022-81). 23/ Another example is the requirement that DNR "provide for meaningful participation in the planning process" by affected state agencies in developing land use plans by regions or areas. AS 38.04.065(b)(8). Further, before classification, zoning, or disposal actions, AS 38.05.945 requires notification of parties "known or likely to be affected."

In other cases, the duty to consult with ADF&G has been set out in regulation. For example, a 1981 memorandum by Assistant Attorney General G. Thomas Koester discussed DNR's authority to incorporate restrictions requested by ADF&G in a multiple land-use permit. 1981 Inf. Op. Att'y Gen. (Dec 15; J-66-352-82). That opinion discussed the then current version of 5 AAC 55.230, which allowed land classified as wildlife habitat to be used for mineral exploration "subject to restrictions which may be imposed by the commissioner [of DNR] at the request of the Commissioner of the Department of Fish and Game." The regulation further stated that lands classified as wildlife habitat could be leased and the disposal of timber and materials allowed if approved by DNR "after consultation with the Commissioner of the Department

23/ As discussed later in this section, land in refuges and sanctuaries cannot be transferred in fee out of state ownership without specific legislative authorization.

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of Fish and Game."

In addition to instances of mandatory consultation, we assume that DNR and ADF&G regularly consult about matters of mutual concern where either agency may be contemplating exercising one of its authorities or responsibilities.

B. Nature of separate, complementary authorities

With respect to special areas, ADF&G and the boards have some authorities and responsibilities which are independent of DNR's and some which overlap. If someone wishes to conduct an activity in a special area, often both DNR and ADF&G have separate rights of review and decision. In those cases, an affirmative decision by each agency would be needed before the activity could begin. This is similar to the situation discussed by Assistant Attorney General Jeffery Lowenfels in a 1981 memorandum evaluating AS 38.05.030(a). 24/ 1981 Inf. Op. Att'y Gen. (Mar. 20; A-66-303-81). That provision specified that the disposal of university lands was to be made by DNR, but that "no sale, lease, exchange or other disposal of university lands may be made without the approval of the Board of Regents of the University of Alaska." The opinion concludes at page 3 that the issuance of a mining lease or mineral patent by DNR on university lands is

24/ This section was subsequently repealed by ch. 152, SLA 1984.

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prohibited unless expressly approved by the Board of Regents. Thus, absent a "classification prohibiting staking which would cover all or part of the university grant lands ... such lands are open to mineral entry, i.e., claim staking, but removal of minerals without prior issuance of a Board of Regents approved lease would not be lawful." Id.

Similarly, in each of the three special areas, DNR and ADF&G have certain dual authorities, not identical in scope, which call for independent review; each agencies' approval is equally necessary for certain activities to occur.

C. Separate, complementary authorities in sanctuaries

In game sanctuaries, governed by AS 16.20.090 -- AS 16.20.170, the authorities given to ADF&G and the boards are set out in a format different from the format for refuges and critical habitat areas, and are much broader. As discussed in section II D above, in sanctuaries the boards are given broad regulatory authority over "entry, development, construction, hunting, fishing, and all other activities or uses...." AS 16.20.120 and AS 16.20.170. These regulations must be for the "purpose of preserving the natural habitat and fish and game" Id. The only other restriction is that they shall not be inconsistent with AS 16.20.130 and AS 16.20.140, which in concert with AS 16.20.170 prohibit the sale of sanctuary land and allow leasing only as mineral land under DNR regulations.

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Thus, the boards' regulations under AS 16.20.120 could not prohibit authorized oil and mineral exploration and development but could condition it as long as the conditions were not inconsistent with federal and state laws and regulations, nor with other limitations determined jointly by DNR and ADF&G. AS 16.20.130. Additionally, the boards can in all other respects govern uses and activities so as to preserve the habitat or fish or game of the area. 25/ As discussed in section III above, this authority includes permitting authority. In sanctuaries, then, DNR's role is limited to regulation and limitation of oil and mineral exploration and development.

D. Separate, complementary authorities in refuges and critical habitat areas

For refuges and critical habitat areas, as discussed in section II D above, the statutory framework which gives authority to ADF&G and the boards differs from the one just reviewed for sanctuaries, and the standard under which the authority is exercised is limited to possible effects on fish, game or their habitat. The powers and duties of ADF&G and the boards in those two types of special areas are quite similar.

25/ Therefore, activities inconsistent with preserving the habitat could not be authorized by the boards, and we see no occasion for board regulations to conflict with general land management statutes.

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ADF&G is given a general permitting authority for refuges 26/ and shares that authority with the boards for critical habitat areas. Whenever the "use, lease or disposal of real property" in refuges is "under the control or jurisdiction of the state," AS 16.20.050 requires the responsible state department (in many cases, DNR) to notify ADF&G before "initiating" the use, lease or disposal. Under AS 16.20.250, in critical habitat areas private land as well as state-owned land is subject to the requirement, 27/ and thus, the statute imposes the duty to notify ADF&G upon the private party as well as the responsible state agency.

After notice is received by ADF&G, the person or governmental agency may be required to submit full plans and specifications. For refuges, ADF&G makes that decision, and for critical habitat areas, the boards decide. AS 16.20.060 and AS 16.20.260. The description of what can be required is identical

26/ In addition, with respect to game refuges, ADF&G has a further statutory mandate. For the Mendenhall Wetlands state game refuge and Creamer's Field migratory waterfowl refuge, ADF&G is explicitly directed to develop a plan to promote the purposes of the refuges, and activities in those refuges are permitted only if compatible with the overall plan. AS 16.20.034(e),(f), (g) and (i), and AS 16.20.039(d).

27/ As discussed in section II C above, DNR is authorized but not required to adopt zoning regulations on private land contained within five of the refuges. AS 16.20.030(b) and (d), AS 16.20.032(d), AS 16.20.036(e), and AS 16.20.038(e).

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for refuges and critical habitat areas: full plans and specifications for the anticipated use, for the proposed construction work, and for the proper protection of fish and game, as well as the approximate date when the construction or work is to commence. Id. Further, ADF&G (for refuges) and the boards (for critical habitat areas) are given the authority to require the person or governmental agency to obtain written approval from ADF&G "as to the sufficiency of the plans and specifications before construction is commenced." Id. As discussed in section III above, written approval that is a prerequisite to commencement of an activity has been determined previously by this office to be a permit. 1982 Op. Att'y Gen. No. 1 (Mar. 4). The legislature has thus required that the impact on fish and game in these areas, specifically established to protect and preserve the natural habitat and to perpetuate fish and wildlife, be evaluated by the agency charged with fish and game management, ADF&G.

Although the requirement in AS 16.20.060 and AS 16.20-.260 for approval before "construction is commenced" can be interpreted several ways, 28/ we believe the most supportable reading encompasses the commencement or continuation of any

28/ "Construct" means "to form, make, or create by combining parts or elements." Webster's Third New International Dictionary, 489 (1976).

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activity which ADF&G determines is likely to affect fish or wildlife or their habitat. In Alaska, a sliding scale for construction of statutes has been established. State v. City of Haines, 627 P.2d 1047, 1049, n.6 (Alaska 1981); accord State v. Alex, 646 P.2d 203, 208-09, n.4 (Alaska 1982). Alaska courts will now construe a statute in light of the overall purposes of the legislation as a whole and will not construe a statute in a manner inconsistent with the express objective of that very legislation. Anchorage Municipal Employment Association v. Municipality of Anchorage, 618 P.2d 575, 580 (Alaska 1980). As detailed in section II A above, the express purpose of refuges and critical habitat areas is to "protect and preserve" the natural habitats and fish and wildlife populations. AS 16.20.020 and AS 16.20.220. Further, for critical habitat areas, the objectives include restricting "all other uses not compatible with" that protection and preservation. AS 16.20.220. Thus, it is most likely that the legislature intended ADF&G's review and approval function in legislatively designated areas to be triggered by the likelihood of impact on fish or game or their habitat.

A narrower reading -- that the written approval applies only to the actual nailing of boards, digging of holes, or building of dikes, and not to cutting down trees or driving heavy vehicles across fragile tundra -- would be inconsistent with the

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clearly articulated legislative concern for the habitat and fish and game in special areas, and with the explicit review provided for the "anticipated use." It is unlikely that the legislature intended the notice and approval statutes to be so narrowly construed as to undermine fish and game protection.

However, we do not believe that an extremely broad reading -- under which ADF&G could require an ADF&G permit for any use, lease, or disposal of land in special areas -- is supportable. The language of AS 16.20.050, AS 16.20.060, AS 16.20.250 and AS 16.20.260 precludes an interpretation which would grant ADF&G permit authority over transactions which are not likely to affect fish or game or their habitat.

Consequently, we believe that the most logical reading of AS 16.20.060 and AS 16.20.260 gives ADF&G permit authority in special areas over any activity which ADF&G determines may affect fish or game or their habitat. That interpretation is consistent with the language of the statutes and the general rule articulated by the Alaska Supreme Court that "conservation laws such as fish and game laws should be liberally construed to achieve their intended purpose." Kenai Peninsula Fisherman's Cooperative Association, Inc. v. State, 628 P.2d 897, 903 (Alaska 1981). It is reasonable to assume that the legislature intended to give meaningful review authority in refuges and critical habitat areas to the agency primarily responsible for fish and

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game conservation -- ADF&G. (In order to further clarify what activities are encompassed by ADF&G permit authority under AS 16.20.060 and AS 16.20.260, it would be strongly advisable for ADF&G to adopt a regulation identifying activities it has determined may affect fish or wildlife or their habitat in special areas.) 29/

For a use, lease, or disposal that will not affect fish or wildlife or their habitat, AS 16.20.050 and AS 16.20.250 still require that ADF&G be notified. The purpose of that notification is to provide ADF&G the opportunity to comment on the lease or disposal to DNR or other relevant agencies and, in critical habitat areas, the private land owner. That consultation may be very important to DNR or the private person in evaluating the wisdom of the transfer; for example, if ADF&G anticipates that it would not be able to permit the eventual use to which the land would be put, those involved are likely to benefit from that knowledge.

E. Water appropriation and use

DNR has the authority to adjudicate water rights among competing claimants and to issue water appropriation permits, as discussed in section II B above. AS 46.15. In doing

29/ See discussion of the need for regulations in section V, under question B, below.

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so, DNR is to consider a number of factors, including the effect on fish and game. AS 46.15.080(b)(2); Alaska Const. art. VIII, § 13. ADF&G, on the other hand, has no authority to appropriate water to particular individuals, although it has a role in commenting to DNR on permit applications and providing information which will assist DNR in fulfilling its constitutional and statutory responsibility to consider fish and game.

However, before use can be made of water appropriated by DNR to a particular claimant, in certain instances a permit must also be issued by ADF&G. If the water is from an anadromous fish stream, the procedures of AS 16.05.870, described in section II D above, must be followed, which may affect how the water appropriated by DNR can be taken. Similarly, if the water appropriated is in a special area, the provisions discussed in section IV C and D above apply. If the method of taking or the use within the special area may affect fish or game or their habitat in a refuge or a critical habitat area, ADF&G has permit authority under AS 16.20.060 and AS 16.20.260. If the use is in a sanctuary, the ADF&G permit authority is found in AS 16.20.120 and AS 16.20.170.

This distribution of complementary DNR and ADF&G authorities over water is analogous to those over land. For example, as discussed in section IV D above, DNR has the power to lease a piece of refuge land, as it has to appropriate water in a

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refuge. However, in this example. ADF&G has permit authority over any use of the leased land that might affect fish or game or their habitat, as it has over use of the appropriated water which could have those effects.

Given the related DNR and ADF&G water appropriation and use authorities over special areas and anadromous fish streams, it is very important that the two departments cooperate and communicate during the water permitting processes. This will ensure that an applicant is not accidentally misled into assuming that only DNR has permitting authority. Further, comment to DNR by ADF&G early in the DNR permitting process will ensure that an applicant is aware of ADF&G's separate and additional AS 16 permitting structures.

F. Prohibition on transfer of state land out of refuges

In refuges, a change in land status out of state ownership could threaten the overall legislative purposes for the refuge by virtue of the different statutory standards that come into play. 30/ In refuges, if state land were conveyed in fee out of state ownership, the land would no longer be refuge land and ADF&G would be unable to require review and approval of later

30/ This discussion does not apply to those refuges which have been incorporated by reference from the national wildlife refuge system, since they do not consist of state land. AS 16.20.030(a).

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use of the transferred parcel, regardless of the effect on fish, game or habitat. This result would do violence to the statutory scheme as a whole.

Moreover, if DNR had the authority to effectively extinguish a legislatively created refuge by transferring state land in fee, it would be contrary to the separation of powers doctrine. The doctrine of separation of powers is implicit in the Alaska Constitution, and precludes one branch of government from interfering with the proper functioning of another branch. State v. Williams, 681 P.2d 313, 315 n.2 (Alaska 1984). This doctrine places primary responsibility for the conduct of legislative activities upon the legislature. Van Brunt v. State, 653 P.2d 343, 346 (Alaska App. 1982). Thus, the executive branch (here, DNR) cannot undo (by transferring state land in refuges out of state ownership) the legislature's actions (providing certain protections for fish and game and their habitat on refuge lands).

Further, it is a fundamental principle of statutory construction that statutes are to be read as a whole, in context, and in a manner that avoids absurdities and carries out legislative intent. 2A N. Singer, Sutherland Statutory Construction §§ 45.12 and 46.05 (4th ed. 1984). We believe that, under those guidelines, refuge land may not be transferred in fee out of state ownership unless such transfer is specifically authorized

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by the legislature, as, for example, in AS 16.20.034(i), which provides for acquisition by the City and Borough of Juneau of state land in the Mendenhall Wetlands refuge for three specified purposes.

Critical habitat areas, unlike refuges, include both private and state land (except for the Anchor River/Fritz Creek area, which includes only state lands). AS 16.20.230. This fact probably reflects legislative recognition that statutory protections in critical habitat areas should extend beyond just state lands, and that multiple land ownership exists in these areas.

Because the legislature specified that the purposes for critical habitat areas include restricting all other uses not compatible with the primary purpose of protecting and preserving the habitat (AS 16.20.220), the legislature must not have intended to allow unrestricted conveyances (in fee) of land out of critical habitat status -- i.e., to federal or municipal entities that are not subject to the notice and permit requirements of AS 16.20.250 and AS 16.20.260. The legislature did not prohibit conveyances per se, but based on the same separation of powers principles articulated above, we interpret AS 16.05.220 as requiring that any fee transfers of state lands in critical habitat areas to private, municipal, or federal ownership, be subject to covenants running with the land that make the land subject to the protections of AS 16.20.240 -- AS 16.20.270.

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Without such protections, DNR could effectively dissolve legislatively created critical habitat areas.

The necessity for including protective covenants in conveyances in fee of state land does not apply to land held in private ownership at the time the critical habitat area was established, because private citizens are not subject to the separation of powers principle and their actions cannot be restricted based on this doctrine. Moreover, had the legislature intended to prohibit or restrict alienability of privately held lands in critical habitat areas, it would presumably have so stated in the legislation. Thus, a private landowner must give ADF&G notice of intent to convey land in fee under AS 16.20.250, but the restrictions of AS 16.20.260 do not apply, and there is no basis for requiring covenants in such private conveyances.

G. Summary and examples

Thus, we believe state land in refuges, as well as sanctuaries, 31/ cannot be conveyed in fee out of state ownership absent legislative authorization. Further, we believe that ADF&G and the boards in combination have permit authority over certain activities within refuges (consisting of state owned land) and critical habitat areas (consisting in almost all cases

31/ AS 16.20.140 and AS 16.20.170.

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of both private and state owned land). It is clear from both AS 16.20.060 and AS 16.20.260 that plans for any anticipated use are reviewable and that under the most supportable interpretation, they must be approved before the use can proceed if ADF&G determines that it would be likely to affect fish or wildlife or their habitat. This does not supplant DNR's separate authorities discussed in sections II B and C above, but it is, rather, in addition to them. 32/ Some examples may be helpful.

If an individual wished to lease a piece of refuge land and to construct on it a boat-launching facility, DNR could evaluate the conveyance under the relevant statutes and regulations, giving notice to ADF&G as required by AS 16.20.050, and determine whether or not under the relevant DNR provisions the lease is in the state's best interest and could be approved. In doing so, DNR could consider any input from ADF&G, but would not be bound by it. However, ADF&G would at the same time be reviewing the proposed plans and specifications for the boat-launching facility to evaluate possible impact on fish, game, or their habitat. If a permit were not issued by ADF&G, the individual could not

32/ We do not mean to suggest that DNR and ADF&G may not work together and make their decisions simultaneously. Indeed, such an approach would be consistent with the Administration's ongoing efforts at "permit reform" and, as discussed in section II E above, is provided for currently in the coastal zone consistency review process established in 6 AAC 50.

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construct the facility on the land, even if the lease were approved by DNR. If an individual wanted to commercially harvest trees on refuge land, ADF&G would be again notified under AS 16.20.050 and could require a permit under AS 16.20.060. Meanwhile, DNR would be reviewing the proposal under its own authority, such as AS 38.05.115. Approval from both agencies, each operating under its separate statutory standard, would be necessary. If the activity were to be located in or were to affect the coastal zone, the consistency review procedures in 6 AAC 50 would apply.

If an owner of private land in a critical habitat area wished to sell or lease his parcel to another individual, the owner would be required to notify ADF&G under AS 16.20.250, but ADF&G approval would not be required. (Similarly, DNR would notify ADF&G if it were considering a sale or lease of state land in critical habitat areas, but ADF&G approval would not be required.) If, however, the land owner wished to cut down all the trees on his parcel to achieve a better view of the nearby mountains, he would again notify ADF&G under AS 16.20.250, but in this instance, since something more than a change in paper status is involved, and if ADF&G determined that fish or wildlife or their habitat could be affected, ADF&G could require that he not proceed without a permit under AS 16.20.260.

If a tour guide wanted to set up expeditions into a

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sanctuary, he could be required by the boards to obtain a permit under AS 16.20.120 and AS 16.20.170, and DNR would not be involved. If a company, on the other hand, wanted to lease sanctuary land for oil exploration, the lease would be governed by DNR regulations under AS 16.20.140, and the exploration would be subject to state and federal laws and limitations jointly determined by DNR and ADF&G under AS 16.20.130. The boards could also impose requirements not inconsistent with those laws and limitations under AS 16.20.120 and AS 16.20.170.

V. SPECIFIC QUESTIONS FROM DNR AND ADF&G

Both DNR and ADF&G have posed specific questions about their complementary authorities in special areas. 33/ Although

33/ In addition, DNR has asked what authorities it holds in yet a fourth type of legislatively created area, state range areas. State range areas are set out in AS 16.20.300 through AS 16.20.360, and two are established. The Delta Junction Bison Range Area is described in AS 16.20.300, and the Matanuska Valley Moose Range is described in AS 16.20.360.

For the Delta Junction Bison Range Area, ADF&G is directed by AS 16.20.310 to develop a plan for bison which includes activities such as planting grains and other wild forage, altering existing plant cover, and tilling in order to produce forage. ADF&G is directed by the statute to "coordinate as closely as possible" with "the activities of the Agricultural Development Authority, Department of Natural Resources, relating to the Big Delta Agricultural Project." (No other reference to this "Authority" appears to be contained in the Alaska statutes.)

The Matanuska Valley Moose Range is established for several purposes, including improving and enhancing moose popu-
(Footnote continued)

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the answers are largely provided above, the questions (somewhat paraphrased) and specific answers are set out here.

Question A: Is the authority exercised by ADF&G under AS 16.20.050 and AS 16.20.060 on state game refuges exclusive of the authority of DNR under Title 38 on state lands? Does DNR retain its traditional role as lessor of interests in land and permitter of certain activities in special areas, while ADF&G holds a veto over the actual exercise of these activities within refuges, critical habitat areas and sanctuaries? Do ADF&G or the boards have the authority to give controlling approval, conditional approval, or denial to a use, lease, or disposal of real property otherwise allowed by DNR in state refuges, critical habitat areas, and game sanctuaries?

Answer: As discussed in section IV above, the statutory authorities of ADF&G and the boards in relation to the

(Footnote continued),
lations and habitat and perpetuating public multiple use of the area through fishing, grazing, forest management, hunting, trapping, and mineral and coal entry and development. AS 16.20.340. The management of fish and game resources in the range is the responsibility of ADF&G, under AS 16.20.350(a). Management of the surface and subsurface estate is the responsibility of DNR, which is directed to adopt a management plan for the range that reflects the concurrence of ADF&G. AS 16.20.350(b). DNR is authorized by AS 16.20.250(c) to adopt regulations governing the public use of the area and is specifically directed to consult with ADF&G before the adoption. Thus, the DNR plan for the area must be approved by ADF&G, but the regulations may be adopted after consultation with ADF&G, even (presumably) if agreement cannot be reached between the two departments.

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-Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

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authorities of DNR are of several kinds. Some authorities must be exercised after consultation, some are joint authorities requiring concurrence, and some are separate and may be independently exercised (although public policy would often best be served by cooperative joint decision making).

ADF&G, in combination with the boards, does have permit authority to approve, condition, or deny activities which could affect fish or game on their habitat in those special areas, whether or not approved by DNR. Similarly, DNR has certain authorities within those areas, and even if a use were one which ADF&G would approve, if DNR also had jurisdiction and for some separate reason did not approve it, it could not be carried out. Thus, it is misleading to characterize ADF&G's authority as a "veto" over DNR's authority, just as it would be inaccurate to characterize DNR's authority as a "veto" over ADF&G's authority. Each is necessary and each is to be exercised independently, under the relevant statutory authorities and standards.

Question B: Do ADF&G or the boards have the authority to adopt regulations setting guidelines for the issuance of their permits in state refuges, critical habitat areas and sanctuaries? Do ADF&G or the boards have the authority to adopt plans for state refuges, critical habitat areas, and game sanctuaries for the purpose of guiding the agency in making permit decisions, species enhancement decisions, species harvest decisions,

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scientific investigations, and decisions designating specific geographic areas as appropriate locations for particular uses?

Answer: As discussed in section III above, this office has already concluded that ADF&G and the boards have implied authority to adopt regulations governing issuance of permits in refuges and critical habitat areas and more explicit authority in sanctuaries. 1982 Op. Att'y Gen. No.1 (Mar. 4). If guidelines are to be used in evaluating permit applications rather than a case-by-case assessment directly under the statute, the guidelines must be contained in regulations. In Kenai Peninsula Fisherman's Cooperative Association Inc. v. State, 628 P. 2d 897, 906 (Alaska 1981), the court discussed the broad definition of "regulation" contained in AS 44.62.640(a)(2), noting that it includes manuals, policies, instructions, guides to enforcement, interpretive bulletins, interpretations, and the like. Id. at 904-05.

One indicator of a regulation is that it "implements, interprets or makes specific the law enforced or administered by the state agency," and another is that it "affects the public or is used by the agency in dealing with the public." Id. at 905. General guidelines for issuing permits in special areas would indeed fit both those descriptions, and thus should be adopted by

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Commissioner, ADF&G
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ADF&G as regulations. 34/

With respect to the authority to adopt plans for the purposes of guiding species enhancement decisions, species harvest decisions, scientific investigations, and decisions allocating lands and waters for particular uses, the same principles apply. 35/ If the plan would affect the public or be used in dealing with the public, then the plan must be adopted as a regulation. If the plan relates "only to internal management," then the definition of "regulation" in AS 44.60.640(a)(2) does not apply and it need not be adopted as a regulation. For example, an internal plan on where to use ADF&G's resources to enhance habitat or to conduct scientific investigations would not need to be adopted as a regulation.

34/ This conclusion can be contrasted to adoption by DNR of land use plans. Specific DNR statutes set out procedures (including detailed notice requirements) and criteria governing land use planning and classification, and those have been elaborated on in DNR regulations. AS 38.04.065, AS 38.05.945, 11 AAC 55.010 -- 11 AAC 55.280. This differs from ADF&G authority in special areas, for which no such detailed procedural mechanisms are established and which are subject to the Administrative Procedure Act, AS 44.62.

35/ For two refuges, Mendenhall Wetlands and Creamer's Field, the statutes specifically direct ADF&G to develop plans. AS 16.20.034(g) and 039(d). For the Anchor River/Fritz Creek critical habitat area, AS 16.20.230(d) specifically directs ADF&G in consultation with DNR to prepare a plan, concurred in by the Kenai Peninsula Borough for some portions of the area, by July 1, 1989, to be submitted to the legislature for approval.

. Hon. Esther Wunnicke
· Commissioner, DNR
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Decisions about harvest of fish and game by the public lie within the authorities of the boards, 36/ and a plan by ADF&G could not directly control that, even if it were adopted as a regulation. However, ADF&G could suggest a plan which the boards could choose to ignore or follow in exercising their own regulatory authorities over the taking of fish and game.

Whether or not ADF&G and the boards have authority to designate geographic areas as appropriate locations for particular uses hinges on whether that furthers the purposes of protecting and preserving the natural habitat and the fish and game of the special areas, or any of the more particular purposes of some of the individual refuges. If such designation facilitates the protection and preservation of the habitat or the fish or game, it should be a component of ADF&G or board regulations governing permitting uses in special areas. For example, if in a particular special area, ADF&G determined that on portion A it was possible to build boardwalks without adversely affecting fish or game or their habitat, but on portion B it was not, then that could be a component of the plan for the special area, which would then have to be adopted in regulation since it would guide permitting decisions involving the public use of the special

36/ Those authorities are found in AS 16.05.251, AS 16.05.255, AS 16.20.040, AS 16.20.120, and AS 16.20.240.

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area. In contrast, if ADF&G determined that portion A was a higher priority for a scientific investigation than portion B, ADF&G might develop a plan for investigation that would direct its personnel and resources to portion A first. That would not need to be adopted as a regulation, since it relates only to internal management.

Question C: We assume that the statutes contemplate cooperation in the planning, management and regulation of critical habitat areas, refuges and sanctuaries. Do the statutes imply specific procedures for cooperation in deciding the use of lands and waters in these areas?

Answer: Statutory obligations upon the two departments to consult and cooperate with one another or with other entities are mandatory and must be meaningfully fulfilled. Provisions which establish consulting mechanisms are undeniably important to achieving the most thorough compilation of information and understanding of the data and the potential consequences of various actions. See 1985 Inf. Op. Att'y Gen. (Sep. 11; 366-105-86). Thus, even when consultation is not required by statute, it is highly desirable when the subject matter of the possible action concerns both departments.

In some cases, outlined in section II C above, AS 16.20 specifies that cooperation and consultation is required between DNR and ADF&G. For example, in the Mendenhall Wetlands state

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game refuge, DNR is specifically designated to manage the surface and subsurface estate, but any actions by DNR which would affect the habitat are to conform with a plan adopted by ADF&G. AS 16.20.034(g). Another example is found in AS 16.20.130, which subjects oil and mineral exploration and development in the sanctuaries to, among other things, limitations jointly determined by DNR and ADF&G. A further example is the responsibility of DNR (and other governmental agencies) to notify ADF&G of any anticipated use, lease, or other disposal of land in refuges or critical habitat areas. AS 16.20.050 and AS 16.20.250. Obviously, unless ADF&G is notified, it would be difficult for it to review proposed actions.

Also, as discussed in section IV above, in some instances DNR is required by its own statutes and regulations to consult with ADF&G before taking action.

Additionally, as discussed in detail in section II E above, 6 AAC 50 establishes a procedure for consistency review under the ACMP for activities in or affecting the coastal zone, providing a mechanism for inter-departmental comment and cooperation in making permit decisions. Although not mandated by statutes, the departments could by agreement follow a similar process in exercising their authorities outside the coastal zone.

VI. CONCLUSION

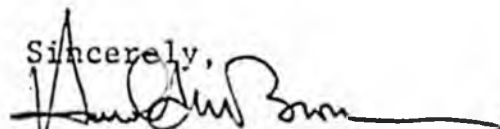
The attached chart summarizes the authorities of the

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two departments which are separate yet complementary. The Department of Natural Resources has many general authorities with regard to state-owned land, as well as specific authorities in state game refuges and sanctuaries. Some of those authorities must be exercised in conjunction with the Department of Fish and Game, some must be exercised after consulting with the Department of Fish and Game, and some may be independently exercised. The Department of Fish and Game and the Boards of Fisheries and Game have specific authorities in state game refuges, game sanctuaries, and critical habitat areas. Some of the authorities are to be exercised in conjunction with DNR, but for the three types of special areas, the Department of Fish and Game and the Boards of Fisheries and Game have separate permit authority which may be exercised independently of the Department of Natural Resources. In any event, any departmental actions which may affect the coastal zone must be consistent with the ACMP, and the consistency review process established in 6 AAC 50 is an example of inter-departmental coordination that might be useful statewide.

Sincerely,



Harold M. Brown
Attorney General

Attachment

SUMMARY OF DNR/ADF&G
 AUTHORITIES IN SPECIAL AREAS
 (AG # 366-045-84 and 366-122-84)

	Refuges	Critical habitat areas	Sanctuaries
<u>Consists of state land only</u>	X*		X
<u>Consists of state and private land</u>		X**	
<u>State land cannot be transferred in fee without specific legislative authorization</u>	X		X
<u>Land can be leased only for oil and mineral exploration and development (by DNR)</u>			X
<u>Oil and mineral exploration and development governed by state and federal laws and regulations, and by limitations jointly determined by DNR & ADF&G</u>			X
<u>Boards may regulate all activities and uses not inconsistent with oil and mineral exploration and development</u>			X
<u>Leases and other paper changes of state land status executed by DNR, but ADF&G must be notified first</u>	X		
<u>Sales, leases, and other paper changes of land status executed by private land owner or DNR, but ADF&G must be notified first</u>		X***	
<u>ADF&G and boards may regulate those activities which they determine may affect fish, game or their habitat</u>	X	X	X

- * Except for the units which have incorporated by reference from the national wildlife refuge system. AS 16.20.030(a).
- ** Except for the Anchor River/Fritz Creek critical habitat area, which consists of state land only.
- *** Transfers of state land must be subject to covenants running with the land that make it subject to the protections of AS 16.20.240 -- AS 16.20.270

TELECOPY COVER SHEET

FAIRBANKS INFORMATION OFFICE

TO: JMU

FOR: Sen Coughill 465-4745

PHONE: _____

FROM: Paul Metz PHONE: 479-2874

INSTRUCTIONS: Call you pick up ASAP

DATE/TIME SENT: 4/8/87 SENT BY: FML L10

PLEASE ACK. RECEIPT: HOLD FOR PICK-UP:

NUMBER OF PAGES: 2 (NOT COUNTING COVER SHEET)

April 8, 1987

The Hon. John B. Coghill
Alaska State Senator
Capitol Building, Room 30
Juneau, Alaska 99801

Re: SB 55, Proposed Minto Flats State Game
Refuge.

Dear Senator Coghill:

The establishment of the proposed State Game Refuge will have several serious detrimental effects on the Alaska economy. Those effects must be compared to the positive effects of enhanced wildlife preservation.

First, the international monetary markets view Alaska as a poor choice for investment particularly in the natural resource industries. The perception among investment bankers and corporate directors is that both the federal and state governments are opposed to resource development in Alaska. This perception is based on actions that have withdrawn 160+ million acres of federal land from access under the mining laws and have effectively closed other large areas of federal land through the land planning and regulatory processes. Today, over 70% of the major mineral occurrences are on land closed to mineral development. In addition, numerous law suits brought by the environmental lobby have delayed major projects to the point where a fair return on investment cannot be had. Another large state land withdrawal regardless of its potential for mineral development will only strengthen the attitude that Alaska is not interested in resource utilization and economic diversification.

Second, the Minto Flats area is part of what is known geologically as the Yukon-Tanana Uplands Schist Terrane. This terrane has produced 20+ million ounces (\$8 Billion in gross value) of placer gold. Areas of past placer gold production are prime targets for lode gold exploration and central Alaska is no exception. Major North American gold exploration programs are underway from South Carolina to the Klondike and from Newfoundland to Southern California. North America is currently the most cost effective place in the world to search for gold and gold is the major target for international mineral investment. However, Alaska is not participating in this major activity not because of lack of geologic potential or adverse economic climate but because of the lack of a reasonable political and regulatory climate.

FAIRBANKS EXPLORATION INC.

P.O. Box 82549 • Fairbanks, Alaska 99708 • (907)479-7547

①

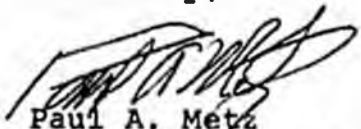
The Hon. John B. Coghill
April 8, 1987
Page 2

Third, the Upland areas immediately adjacent to the proposed refuge have been examined in a cursory fashion by the various state and federal resource agencies. Several mineral occurrences in the area have indications of the potential for world class gold mines. The geology of one occurrence South of Livengood is a near perfect analog to the largest gold mine in the world located in the Soviet Union. The Soviet deposit at Marantau produces over 700,000 ounces of gold per year with a gross annual value of \$280 million. The expected mine life is in excess of 20 years. The development of a similar deposit in Interior Alaska would result in the creation of several thousand new jobs. The establishment of yet another wildlife refuge near these target areas will make the acquisition of capital to adequately evaluate and develop these occurrences a near impossible task.

Fourth, the rivers that drain into the proposed refuge have their headwaters in the historic Fairbanks and Livengood mining districts. Currently, federal Fish and Wildlife managers are attempting management control over headwater areas of federal refuges. Similar actions by the state would result in effective closure of Alaska's largest gold producing area.

Currently, there are mechanisms for proper management of wildlife within the Minto Flats area. These mechanisms must be implemented through enforcement of existing laws without the creation of new laws. The active enforcement of our existing laws will tend to send positive rather than negative signals to the international investment community. Such positive signals will enhance levels of investment and economic diversification in Alaska.

Sincerely,



Paul A. Metz
Chairman of the Board

cc: Members of the Legislature
Governor Cowper

4/2/87

Draft Amendments to SB 55 Minto Flats State Game Refuge

(b) The Minto Flats State Game Refuge is established to ensure

(1) the protection and enhancement of habitat;
(2) the conservation of fish and wildlife; and
(3) to guarantee the continued use and enjoyment by the public of hunting, fishing, trapping, and other uses conducted in a manner compatible with the the protection of habitat and the conservation of fish and wildlife. According to the Constitution of the state of Alaska.

(c) The state may not acquire by eminent domain privately owned land within the Minto Flats State Game Refuge, but may acquire privately owned land by purchase, exchange, or otherwise for inclusion in the Minto Flats State Game Refuge.

new section : All sections after this one are re-lettered

(d) The state when establishing a management plan for the refuge may not, or for lack of a management plan for the refuge may not, adopt or recommend, regulations, stipulations, permits, or other restrictions on the use of land, water, or land and water resources outside, upstream, or adjacent to, the refuge in order to fulfill (b) of this section.

(e) Public access to the Minto Flats State Game Refuge by means of horse, boat, aircraft, dog team, snowmachine, or other means consistent with (b) (3) of this section, may not be prohibited.

(f) Access to and from [REASONABLE INGRESS TO AND EGRESS FROM] private property within the Minto Flats State Game Refuge shall be guaranteed through access corridors established through agreement between the Department of Natural Resources, the Department of Fish and Game, and the private property owner(s) involved.

(g) [same wording as in (f) of CS.]

(h) ~~In~~ The Minto Flats State Game Refuge management plan [THE COMMISSIONER OF FISH AND GAME] shall recognize the existence of historic trails and shall provide access across the refuge to the extent consistent with (b) of this section.

(i) In preparing the Minto Flats State Game Refuge management plan the commissioner of natural resource may exercise his/her authority under AS 38.05.185 - 38.05.275.

(i) The authorities of section (e) of AS. 41.17.230 shall be retained by the Commissioner of Natural Resources in the management of the Minto Flats State Game Refuge

TELECOPY COVER SHEET
 FAIRBANKS INFORMATION OFFICE

TO: Jme

FOR: Senate Resources Comm. - Senators

Coghill, Fischer, Jones, Duncan, Zharoff, Eliason,
& Sturgulewski PHONE: _____

FROM: _____ PHONE: _____

INSTRUCTIONS: Please make copies for the above -

Testimony for a meeting TODAY at 1:30 PM.

DATE/TIME SENT: 12:00 SENT BY: Annie

PLEASE ACK. RECEIPT: HOLD FOR PICK-UP: _____

NUMBER OF PAGES: 2 (NOT COUNTING COVER SHEET)

MINTO FLATS STATE GAME REFUGE

Whereas, SB 55 has been introduced in the Legislature to create a Minto Flats State Game Refuge in the Minto Flats area; and

Whereas, the proposed refuge is intended to protect and enhance habitat, conserve fish and wildlife, and allow the continuation of hunting, fishing, trapping, and other compatible uses; and

Whereas, the Department of Natural Resources Tanana Basin Area Plan, already in effect, is capable of offering similar resource protection; and

Whereas, State land in the Minto Flats area should continue to be managed under the provisions of the Tanana Basin Area Plan; and

Whereas, much of the proposed refuge is already designated as the Minto Game Management Area for the purpose of game management; and

Whereas, The Minto Flats area should continue to be designated as the Minto Game Management Area for the purposes of managing game resources; and

Whereas; there is no identifiable impending threat to the habitat or resources of Minto Flats which makes its designation as a game refuge desirable or necessary; and

Whereas; Minto Flats is an important recreation area for the surrounding communities; and

Whereas; land designations such as "game refuge" have historically facilitated stringent restrictions, management plans and court decisions which decrease the ability of the public to access the land and utilize its resources in even a traditional manner; and

Whereas; such stringent restrictions increase over time to the point that the original purpose for the designation is negated; and

Whereas; the proposed refuge includes portions of existing trails which are protected by RS 2477 rights-of-way, and which are important as access to and through the area, and

Whereas; the proposed refuge would overlie portions of identified corridors for possible future transportation system extensions west from Nenana, and north and west from Dunbar, to western Alaska, and/or to mineral deposits in the Kohnuk River area; and

Whereas, the proposed refuge overlies one of the alignment alternatives for the proposed TransAlaska Gas System Pipeline; and

Whereas; the refuge proposal includes a mineral closure for which there is no need, and study has not been adequately done on whether or not there are mineral resources, such as deep placers that might bring the state millions of dollars in revenue, and the majority of Alaska's mineral resources are already in a mineral closed area without adequate studies, and

Whereas; the Livengood/Tolovana Mining District and a major portion of the Fairbanks Mining District are located in the headwaters of rivers that drain into the Minto Flat areas. These mining districts are very concerned about the ramifications of having a refuge located in their drainages.

NOW THEREFORE BE IT RESOLVED that the State land in the Minto Flats area should NOT be designated as a State Game Refuge.

Passed this 25th day of March, 1987 at the Miners Meeting, 1987 Placer Mining Conference.

Leslie Noyes

Leslie Noyes, Miners Meeting Moderator

P.O. Box 73824
FAIRBANKS 99707
— — —
452-6227

(2)

PUBLIC OPINION MESSAGE

DEAR: SENATOR COGHILL

NAME: JAMES BARKER

TITLE:

ADDRESS: 671 ECHO ACRES ROAD

CITY: FAIRBANKS

ZIP: 99701

PHONE: 479-4277

BILL NO: SB 55

SUBJECT: MINTO FLATS STATE GAME REFUGE

MESSAGE: I WOULD LIKE TO EXPRESS MY OPPOSITION TO ESTABLISHMENT OF MINTO FLATS WILD LIFE REFUGE FOR TWO PRINCIPAL REASONS. 1) POTENTIALLY IT MAY BLOCK CRITICAL TRANSPORTATION ROUTES TO WESTERN ALASKA. 2) IT FURTHER ESTABLISHES THE DEPT. OF FISH AND GAME AS A LAND MANAGEMENT AGENCY AT A TIME WHEN ALASKA IS ALREADY OVERWHELMED BY A QUILT-WORK OF INDEPENDANT LAND OWNERSHIP AUTHORITIES. I URGE YOU TO RETAIN THE MINTO FLATS AREA AS OUTLYING IN THE TVAT.

POMID: 07103024

DATE: 04/01/87

TIME: 10:30:24

LIONAME: FAIRBANKS LIO

COPIES: SENATORS

DUNCAN
ELIASON
FISCHER
JONES
STURGULEWSKI
ZHAROFF
BENNETT
FAHREIKAMP

May 27, 1986

Dear Honorable Member of the Alaska Legislature:

We the undersigned users of the Minto Flats area, urge you to introduce the enclosed legislation to create the Minto Flats State Game Refuge.

The abundance of game and nongame fish and wildlife species in the Minto Flats area is widely recognized (e.g., moose, black bear, beaver, muskrat, river otter, wolf, red fox, waterfowl, northern pike, whitefish [including sheefish], and salmon). The Sport Fish Division of the Alaska Department of Fish and Game estimated that during 1984, 819 anglers spent 1829 days fishing the Minto Flats area and harvested over 2300 fish. The United States Fish and Wildlife Service has been conducting annual aerial waterfowl breeding population surveys in Alaska for 30 years; they state that "The Minto Flats area is one of the highest quality waterfowl nesting habitats on the North American continent." Minto flats is a very popular human use area for hunting, fishing, trapping and other outdoor uses. The Alaska Department of Fish and Game reports that during the 1984 waterfowl season 5,094 hunter days (6.7% of the total waterfowl hunter effort in the state) were expended hunting waterfowl in the Minto area. The estimated 1984 harvest in the Minto area was 11,685 ducks (11.5% of total state harvest) and 777 geese (5.1% of total state harvest).

It is our intent in proposing the creation of the Minto Flats State Game Refuge that the legislation 1) recognize the high value of fish and game and their habitat in the area; 2) guarantee the perpetuation of hunting, fishing, and trapping activities in accordance with harvest regulations as established by the Boards of Fisheries and Game; 3) guarantee historical and customary access to private lands; and 4) perpetuate nonconsumptive uses. It is our intent that the following human uses will continue without further agency authorization unless otherwise provided by law or found to be incompatible with the purpose for which the refuge is established:

- (1) Hiking and backpacking, horse and dog team travel, cross-country skiing, snowmachining, boating, landing of aircraft and camping (to include campfires);
- (2) hunting, fishing and trapping; and

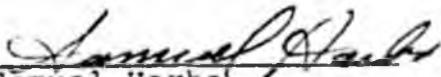
- (3) other related uses that are temporary in duration and have no foreseeable adverse effect on vegetation, drainage, soil stability, fish, game or their habitat.

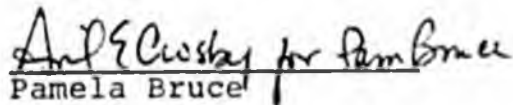
When the compatibility of a use is questioned, the Department of Fish and Game will conduct specific fact finding efforts, including public meetings, prior to making a final determination.

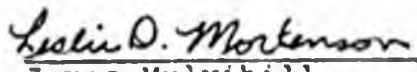
The Department of Fish and Game is to consult with adjacent communities and other interested parties in the preparation of the management plan for the Minto Flats State Game Refuge. It is our desire that the Department of Fish and Game be funded to initiate the management planning process immediately following the legislative designation of this important area.

It is also the objective of this group that this letter of intent be incorporated as part of the legislative record during the establishment of the Minto Flats State Game Refuge.

Sincerely,


Vice President
Samuel Harbo
Alaska Outdoor Council
P.O. Box 73478
Fairbanks, AK 99707

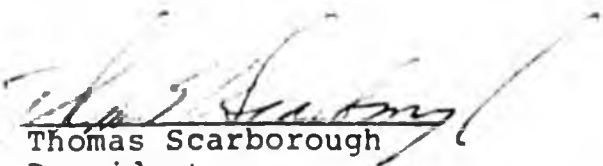

President
Pamela Bruce
Arctic Audubon
940 Kalina Road
Fairbanks, AK 99712

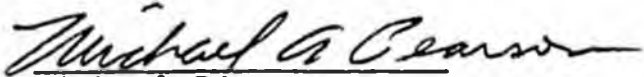

President
James Mulvihill
Cleary Sky Sportsmen Club
P.O. Box 254
Clear, AK 99704


Proposed Minto Flats
State Game Refuge

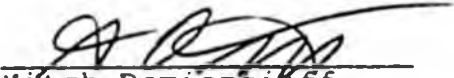
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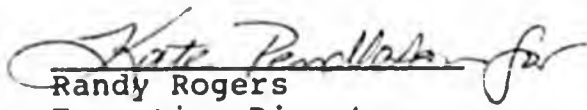
5/27/86



Thomas Scarborough
President
Fairbanks Fish and Game Advisory Committee
1676 Taroka Drive
Fairbanks, AK 99701


Michael Pearson
President
Healy/Clear Fish and Game Advisory Committee
P.O. Box 469
Clear, AK 99704


Lee Titus
Chief
Minto Native Council
General Delivery
Minto, AK 99758


Mitch Demientieff
Chief
Nenana Native Council
P.O. Box 251
Nenana, AK 99760


Randy Rogers
Executive Director
Northern Alaska Environmental Center
218 Driveway
Fairbanks, AK 99701


Robert Charlie
Land Manager
Seth-de-ya-ah Corporation
Box 849
Fairbanks, AK 99707

Proposed Minto Flats
State Game Refuge

-4-

5/27/86

*Oliver Burris by Joe Nava, Chairman,
Minto Flats Refuge Committee*

Oliver Burris
President
Tanana Valley Sportsman Association
Fairbanks, AK 99701

Enclosure

5/27/86

IN THE LEGISLATURE OF THE STATE OF ALASKA
FIFTEENTH LEGISLATURE - FIRST SESSION
A BILL

For an Act entitled: "An Act creating the Minto Flats State Game Refuge."

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

* Section 1. AS 16.20 is amended by adding a new section AS 16.20.037, to read:

Section 16.20.037. Minto Flats State Game Refuge.
(a) All state-owned land and water contained in the following description is established as the Minto Flats State Game Refuge:

Township 1 N., Range 6 W., Fairbanks Meridian
Sections 2 - 11
Sections 14 - 23
Sections 26 - 34

Township 1 N., Range 7 W., Fairbanks Meridian
Sections 1 - 36 All

Township 1 N., Range 8 W., Fairbanks Meridian
Sections 1 - 16
Sections 21 - 28
Section 35: E $\frac{1}{2}$
Section 36

Township 1 N., Range 9 W., Fairbanks Meridian
Sections 1 - 12

Township 1 N., Range 10 W., Fairbanks Meridian
Sections 1 - 12

Township 1 N., Range 11 W., Fairbanks Meridian
Sections 1 - 4
Sections 8 - 17
Sections 20 - 29

Township 2 N., Range 6 W., Fairbanks Meridian
Sections 1 - 36 All

Township 2 N., Range 7 W., Fairbanks Meridian
Sections 1 - 36 All

Township 2 N., Range 8 W., Fairbanks Meridian
Sections 1 - 36 All

Township 2 N., Range 9 W., Fairbanks Meridian
Sections 1 - 36 All

Township 2 N., Range 10 W., Fairbanks Meridian
Section 3
Sections 8 - 10
Section 11: S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$
Section 12: S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$
Sections 13 - 36

Township 2 N., Range 11 W., Fairbanks Meridian
Sections 13-15
Sections 22-27
Sections 34-36

Township 3 N., Range 6 W., Fairbanks Meridian
Sections 13 - 36

Township 3 N., Range 7 W., Fairbanks Meridian
Sections 6 - 8
Section 9: S $\frac{1}{2}$ S $\frac{1}{2}$
Sections 13 - 36

Township 3 N., Range 8 W., Fairbanks Meridian
Section 1
Sections 5 - 10
Sections 14 - 23
Sections 25 - 36

Township 3 N., Range 9 W., Fairbanks Meridian
Section 24: S $\frac{1}{2}$
Section 25
Sections 33 - 36

Township 3 N., Range 10 W., Fairbanks Meridian
Sections 34 - 35

Township 4 N., Range 6 W., Fairbanks Meridian
Sections 2 - 9
Sections 16 - 21

Township 4 N., Range 7 W., Fairbanks Meridian
Sections 1 - 4
Section 5: S $\frac{1}{2}$
Section 6: S $\frac{1}{2}$
Sections 7 - 24
Sections 30 - 31

Township 4 N., Range 8 W., Fairbanks Meridian
Sections 10 - 15
Sections 22 - 27

Sections 30 - 31
Sections 35 -36

Township 5 N., Range 5 W., Fairbanks Meridian
Section 6: $W\frac{1}{2}$
Section 7: $W\frac{1}{2}$
Section 18: $W\frac{1}{2}$

Township 5 N., Range 6 W., Fairbanks Meridian
Sections 1 - 3
Section 4: $SE\frac{1}{4}$
Section 9: $E\frac{1}{2}$
Sections 10 - 15
Section 16: $E\frac{1}{2}$, $SW\frac{1}{4}$
Section 20: $S\frac{1}{2}$
Sections 21 - 29
Sections 31 - 36

Township 5 N., Range 7 W., Fairbanks Meridian
Section 35: $SE\frac{1}{4}$
Section 36: $S\frac{1}{2}$

Township 1 S., Range 6 W., Fairbanks Meridian
Sections 5 - 8
Sections 17 - 20
Sections 29 - 31

Township 1 S., Range 7 W., Fairbanks Meridian
Sections 1 - 36 All

Township 1 S., Range 8 W., Fairbanks Meridian
Sections 1 - 2
Sections 11 - 14
Sections 23 - 26
Sections 35 - 36

Township 1 S., Range 9 W., Fairbanks Meridian
Sections 1 - 36 All

Township 1 S., Range 10 W., Fairbanks Meridian
Sections 7 - 36

Township 1 S., Range 11 W., Fairbanks Meridian
Sections 25 - 26
Sections 35 - 36

Township 2 S., Range 6 W., Fairbanks Meridian
Section 6: $S\frac{1}{2}NW\frac{1}{4}$, $S\frac{1}{2}$
Section 7: All N. and W. of the Alaska
Railroad ROW
Section 18: All N. and W. of the Alaska

Railroad ROW
Section 19: All N. And W. of the Alaska
Railroad ROW

Township 2 S., Range 7 W., Fairbanks Meridian
Sections 1 - 12
Section 13: NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$
Section 14: W $\frac{1}{2}$
Sections 15 - 22
Section 23: W $\frac{1}{2}$
Section 24: All N. and W. of the Alaska
Railroad ROW
Section 27: NW $\frac{1}{4}$
Section 28 - 32
Section 33: NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$

Township 2 S., Range 8 W., Fairbanks Meridian
Section 1
Sections 12 - 13
Sections 24 - 25
Section 36

Township 2 S., Range 9 W., Fairbanks Meridian
Sections 1 - 12
Section 17: W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 18
Section 19: N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$

Township 2 S., Range 10 W., Fairbanks Meridian
Sections 1 - 20
Section 21: NE $\frac{1}{4}$, W $\frac{1}{2}$
Section 22: NW $\frac{1}{4}$
Section 24: N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$
Sections 29 - 31

Township 2 S., Range 11 W., Fairbanks Meridian
Sections 1 - 5
Sections 7 - 36

Township 2 S., Range 12 W., Fairbanks Meridian
Sections 25 - 26
Sections 35 - 36

Township 3 S., Range 7 W., Fairbanks Meridian
Section 5: N $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$
Sections 6 - 7
Section 18: NE $\frac{1}{4}$, W $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$

Township 3 S., Range 8 W., Fairbanks Meridian
Section 1
Section 12

Section 13

Section 22: NE $\frac{1}{4}$ (That portion above the ordinary high water mark right bank Tanana River.)

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

Section 24: N $\frac{1}{2}$, SW $\frac{1}{4}$

Section 25: NW $\frac{1}{4}$

Township 3 S., Range 11 W., Fairbanks Meridian

Sections 2 - 10

Section 11: N $\frac{1}{2}$

Section 14: SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$

Sections 15 - 21

Section 22: NE $\frac{1}{4}$, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$

Section 23: NW $\frac{1}{4}$

Section 27: W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$

Sections 28 - 31

Section 32: NE $\frac{1}{4}$, NW $\frac{1}{4}$, SE $\frac{1}{4}$

Section 33: W $\frac{1}{2}$

Township 3 S., Range 12 W., Fairbanks Meridian

Sections 1 - 2

Sections 11 - 14

Sections 23 - 26

Sections 35 - 36

- (b) The Minto Flats State Game Refuge is established to ensure the protection and enhancement of habitat and the conservation of fish and wildlife species dependent thereon; and to guarantee its continued use and enjoyment by the public for hunting, fishing, trapping and other uses compatible with the protection of habitat and the conservation of the fish and wildlife species.
- (c) Public access including, but not limited to, the use of horses, boats, aircraft, dog teams and snowmachines is guaranteed provided that such use is consistent with (b) of this section.
- (d) The state may not acquire by eminent domain privately-owned land within the state game refuge established by this Act but may acquire privately-owned land by purchase, exchange, or otherwise for inclusion in the Minto Flats State Game Refuge.
- (e) Egress and ingress to and from private property within the Minto Flats State Game

Refuge shall be guaranteed through access corridors established through agreement between the Department of Fish and Game and the private property owners involved.

- (f) The Minto Flats State Game Refuge will be managed in accordance with a management plan prepared by the Department of Fish and Game. The management plan will be prepared in a timely fashion in accordance with available funding.

* Section 2. All state-owned land and water within the state game refuge established by this Act are closed to mineral entry under AS 38.05.185 - 38.05.280.

* Section 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

Comments on Minto Flats State Game Refuge

Draft

The Alaska Miners Association (AMA) has reviewed the proposed legislation for the creation of the Minto Flats State Game Refuge. We do not oppose this legislation provided the refuge is established in a manner that recognizes valid existing rights and other resource values. With this in mind, AMA recommends the following sections be considered in an effort to limit administrative discretion and prevent another well intentioned lock-up:

AS 16.20.037 (b) add. Commercial development of forest resources shall be the desired alternative for vegetative manipulation for those areas supporting commercial size timber.

All too often in the past valuable resources have been destroyed for political or administrative expediency, while Alaska residents have been unable to acquire such resources for beneficial use. AMA believes such waste is unnecessary and can be prevented with advanced planning and by working with the public and industry.

AS 16.20.037 (c) Public access is generated to and through the refuge area with priority to be given to the extension of the Alaska Railroad, oil and gas pipelines, and roads to serve the established units of the Tanana Valley State Forest. Location of such access facilities shall be controlled principally by engineering feasibility and economics of construction with due consideration to be given to critical habitat areas and construction timing. Gravel resources available on site shall be made available for such construction. Road access may be regulated with public access closures limited to no more than four (4) months per year. Emergency closures relating to public health and safety or to prevent undue damage to the facilities are exceptions to the above cited closure limit.

All too often in the past, well intentioned special use areas have been created only to be used later, to administratively block critically needed developmental access. Since the Minto flats Refuge area is located in a manner to block desperately needed future access routes and since alternate access routes are neither economically nor technically feasible, AMA believes controls must be included in the legislation to prevent another administrative land lock-up.

Draft

AS 16.20.037 (e) Access to and from private property interest within and adjacent to the Minto Flats State Game Refuge, shall be guaranteed, through joint agreement with the owners of the private property interest. The Department of Fish and Game may establish access corridors for such guaranteed access.

In the past, both State and Federal guarantees of access to inholders have been perverted and used as a means to eliminate viable property rights. AMA believes that guaranteed access rights must be established in a manner that precludes administrative elimination of such access.

AS 16.20.037 (1) and, lack of a management plan shall not be used as a justification to limit or otherwise restrict any of the provisions of this act.

Past experience with both the State and Federal agencies using the planning process to restrict or deny benefits of legislation, particularly to private interest, even though legislation clearly intended no such restrictions, prompts the addition of this clause. AMA believes this qualifier is absolutely necessary to protect private and public rights.

Section 2. The proposed mineral closure should be eliminated in its entirety. There have been mining claims within and adjacent to the refuge area for many years without appreciable problems. The area is rated as having low mineral potential in the Tanana Valley Management Plan and is unlikely to receive significant interest in the near future, but it remains as a virtually unexplored mineral area. It therefore should remain open until scientific data, in sufficient detail to eliminate the area as having mineral potential.

The value and integrity of the proposed refuge will be neither jeopardized nor enhanced by mineral closure. AMA believes that it is in the best public interest to leave the area open to encourage assessment of its mineral potential. The Departments' concern over control of trespass cabins is without merit since there are already laws available to affect such control. While the area has low mineral potential, with mineral closure, it has no mineral potential.

While the Minto Flats area deserves retention and management as an important fish and game concentration area and public use area, the Alaska Miners Association firmly believes that it must not become another lock-up of Alaska's resources. AMA asks that serious consideration be given to the above proposed bill amendments to accomplish a much needed reasonable balance.

1 IN THE SENATE

BY BINKLEY AND KERTTULA

2

SENATE BILL NO. 55

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act establishing the Minto Flats State Game
7 Refuge; and providing for an effective date."

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. 16.20.037. MINTO FLATS STATE GAME REFUGE. (a) The follow-
11 ing state-owned land and water is established as the Minto Flats State
12 Game Refuge:

13 (1) Township 1 North, Range 6 West, Fairbanks Meridian

14 Sections 2 - 11

15 Sections 14 - 23

16 Sections 26 - 34

17 (2) Township 1 North, Range 7 West, Fairbanks Meridian

18 Sections 1 - 36

19 (3) Township 1 North, Range 8 West, Fairbanks Meridian

20 Sections 1 - 16

21 Sections 21 - 28

22 Section 35: E1/2

23 Section 36

24 (4) Township 1 North, Range 9 West, Fairbanks Meridian

25 Sections 1 - 12

26 (5) Township 1 North, Range 10 West, Fairbanks Meridian

27 Sections 1 - 12

28 (6) Township 1 North, Range 11 West, Fairbanks Meridian

29 Sections 1 - 4

1 Sections 8 - 17
 2 Sections 20 - 29
 3 (7) Township 2 North, Range 6 West, Fairbanks Meridian
 4 Sections 1 - 36
 5 (8) Township 2 North, Range 7 West, Fairbanks Meridian
 6 Sections 1 - 36
 7 (9) Township 2 North, Range 8 West, Fairbanks Meridian
 8 Sections 1 - 36
 9 (10) Township 2 North, Range 9 West, Fairbanks Meridian
 10 Sections 1 - 36
 11 (11) Township 2 North, Range 10 West, Fairbanks Meridian
 12 Section 3
 13 Sections 8 - 10
 14 Section 11: S1/2N1/2, S1/2
 15 Section 12: S1/2N1/2, S1/2
 16 Sections 13 - 36
 17 (12) Township 2 North, Range 11 West, Fairbanks Meridian
 18 Sections 13 - 15
 19 Sections 22 - 27
 20 Sections 34 - 36
 21 (13) Township 3 North, Range 6 West, Fairbanks Meridian
 22 Sections 13 - 36
 23 (14) Township 3 North, Range 7 West, Fairbanks Meridian
 24 Sections 6 - 8
 25 Section 9: S1/2S1/2
 26 Sections 13 - 36
 27 (15) Township 3 North, Range 8 West, Fairbanks Meridian
 28 Section 1
 29 Sections 5 - 10

1 Sections 14 - 23
2 Sections 25 - 36
3 (16) Township 3 North, Range 9 West, Fairbanks Meridian
4 Section 24: S1/2
5 Section 25
6 Sections 33 - 36
7 (17) Township 3 North, Range 10 West, Fairbanks Meridian
8 Sections 34 - 35
9 (18) Township 4 North, Range 6 West, Fairbanks Meridian
10 Sections 2 - 9
11 Sections 16 - 21
12 (19) Township 4 North, Range 7 West, Fairbanks Meridian
13 Sections 1 - 4
14 Section 5: S1/2
15 Section 6: S1/2
16 Section: 7 - 24
17 Sections 30 - 31
18 (20) Township 4 North, Range 8 West, Fairbanks Meridian
19 Sections 10 - 15
20 Sections 22 - 27
21 Sections 30 - 31
22 Sections 35 - 36
23 (21) Township 5 North, Range 5 West, Fairbanks Meridian
24 Section 6: W1/2
25 Section 7: W1/2
26 Section 18: W1/2
27 (22) Township 5 North, Range 6 West, Fairbanks Meridian
28 Sections 1 - 3
29 Section 4: SE1/4

1 Section 9: E1/2
 2 Sections 10 - 15
 3 Section 16: E1/2, SW1/4
 4 Section 20: S1/2
 5 Sections 21 - 29
 6 Sections 31 - 36
 7 (23) Township 5 North, Range 7 West, Fairbanks Meridian
 8 Section 35: SE1/4
 9 Section 36: S1/2
 10 (24) Township 1 South, Range 6 West, Fairbanks Meridian
 11 Sections 5 - 8
 12 Sections 17 - 20
 13 Sections 29 - 31
 14 (25) Township 1 South, Range 7 West, Fairbanks Meridian
 15 Sections 1 - 36
 16 (26) Township 1 South, Range 8 West, Fairbanks Meridian
 17 Sections 1 - 2
 18 Sections 11 - 14
 19 Sections 23 - 26
 20 Sections 35 - 36
 21 (27) Township 1 South, Range 9 West, Fairbanks Meridian
 22 Sections 1 - 36
 23 (28) Township 1 South, Range 10 West, Fairbanks Meridian
 24 Sections 7 - 36
 25 (29) Township 1 South, Range 11 West, Fairbanks Meridian
 26 Sections 25 - 26
 27 Sections 35 - 36
 28 (30) Township 2 South, Range 6 West, Fairbanks Meridian
 29 Section 6: S1/2NW1/4, S1/2

1 Section 7: all North and West of the Alaska Railroad
2 right-of-way
3 Section 18: all North and West of the Alaska Railroad
4 right-of-way
5 Section 19: all North and West of the Alaska Railroad
6 right-of-way
7 (31) Township 2 South, Range 7 West, Fairbanks Meridian
8 Sections 1 - 12
9 Section 13: NE1/4, E1/2NW1/4, NE1/4SW1/4, S1/2SW1/2, *Changed in CS*
10 SE1/4
11 Section 14: W1/2
12 Sections 15 - 22
13 Section 23: W1/2
14 Section 24: all North and West of the Alaska Railroad
15 right-of-way
16 Section 27: NW1/4
17 Sections 28 - 32
18 Section 33: NE1/4NE1/4, W1/2NE1/4, W1/2, W1/2SE1/4
19 (32) Township 2 South, Range 8 West, Fairbanks Meridian
20 Section 1
21 Sections 12 - 13
22 Sections 24 - 25
23 Section 36
24 (33) Township 2 South, Range 9 West, Fairbanks Meridian
25 Sections 1 - 12 *changed in CS*
26 Section 17: W1/4NW1/4, NW1/4SW1/4
27 Section 18
28 Section 19: N1/2, N1/2S1/2
29 (34) Township 2 South, Range 10 West, Fairbanks Meridian

1 Sections 1 - 20

2 Section 21: NE1/4, W1/2

3 Section 22: NW1/4

4 Section 24: N1/2, N1/2S1/2

5 Sections 29 - 31

6 (35) Township 2 South, Range 11 West, Fairbanks Meridian

7 Sections 1 - 5

8 Sections 7 - 36

9 (36) Township 2 South, Range 12 West, Fairbanks Meridian

10 Sections 25 - 26

11 Sections 35 - 36

12 (37) Township 3 South, Range 7 West, Fairbanks Meridian

13 Section 5: N1/2NE1/4, W1/2

14 Sections 6 - 7

15 Section 18: NE1/4, W1/2, N1/2SE1/4, SW1/4SE1/4

16 (38) Township 3 South, Range 8 West, Fairbanks Meridian

17 Section 1

18 Section 12

19 Section 13

20 Section 22: NE1/4 (that portion above the ordinary

21 high water mark right bank Tanana River)

22 Section 23: N1/2, SE1/4

23 Section 24: N1/2, SW1/4

24 Section 25: NW1/4

25 (39) Township 3 South, Range 11 West, Fairbanks Meridian

26 Sections 2 - 10

27 Section 11: N1/2

28 Section 14: SW1/4NE1/4, S1/2NW1/4, SW1/4, W1/2SE1/4

29 Sections 15 - 21

- 1 Section 22: NE1/4, W1/2, W1/2SE1/4
- 2 Section 23: NW1/4
- 3 Section 27: W1/2NE1/4, NW1/4, W1/2SW1/4
- 4 Sections 28 - 31
- 5 Section 32: NE1/4, NW1/4, SE1/4
- 6 Section 33: W1/2
- 7 (40) Township 3 South, Range 12 West, Fairbanks Meridian
- 8 Sections 1 - 2
- 9 Sections 11 - 14
- 10 Sections 23 - 26
- 11 Sections 35 - 36

changed CS

12 (b) The Minto Flats State Game Refuge is established to ensure
13 (1) the protection and enhancement of habitat;
14 (2) the conservation of fish and wildlife; and
15 (3) the continuation of hunting, fishing, trapping and
16 other uses compatible with the protection of habitat and the conserva-
17 tion of fish and wildlife.

18 (c) The state may not acquire by eminent domain privately owned
19 land within the Minto Flats State Game Refuge, but may acquire pri-
20 vately owned land by purchase, exchange, or otherwise for inclusion in
21 the Minto Flats State Game Refuge.

22 (d) Public access to the Minto Flats State Game Refuge by means
23 of horse, boat, aircraft, dog team, snowmachine, or other means
24 consistent with (b) of this section may not be prohibited.

25 *changes CS* (e) Egress and ingress to and from private property within the
26 Minto Flats State Game Refuge shall be allowed through access corri-
27 dors established through agreement between the Department of Natural
28 Resources, the Department of Fish and Game, and the private property
29 owners involved.

Changes in (f) & (g) in CS

1 (f) The Department of Fish and Game shall manage the Minto Flats
2 State Game Refuge in accordance with a management plan prepared by the
3 department.

4 (g) State-owned land and water within the Minto Flats State Game
5 Refuge are closed to mineral entry under AS 38.05.185 - 38.05.280.

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

(h) Added in CS

Original sponsors: Binkley and Kerttula

1 IN THE SENATE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2

CS FOR SENATE BILL NO. 55 (C&RA)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing the Minto Flats State Game

7

Refuge; and providing for an effective date."

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.C37. MINTO FLATS STATE GAME REFUGE. (a) The follow-

11

ing state-owned land and water is established as the Minto Flats State

12

Game Refuge:

13

(1) Township 1 North, Range 6 West, Fairbanks Meridian

14

Sections 2 - 11

15

Sections 14 - 23

16

Sections 26 - 34

17

(2) Township 1 North, Range 7 West, Fairbanks Meridian

18

Sections 1 - 36

19

(3) Township 1 North, Range 8 West, Fairbanks Meridian

20

Sections 1 - 16

21

Sections 21 - 28

22

Section 35: E1/2

23

Section 36

24

(4) Township 1 North, Range 9 West, Fairbanks Meridian

25

Sections 1 - 12

26

(5) Township 1 North, Range 10 West, Fairbanks Meridian

27

Sections 1 - 12

28

(6) Township 1 North, Range 11 West, Fairbanks Meridian

29

Sections 1 - 4

1 Sections 8 - 17
 2 Sections 20 - 29
 3 (7) Township 2 North, Range 6 West, Fairbanks Meridian
 4 Sections 1 - 36
 5 (8) Township 2 North, Range 7 West, Fairbanks Meridian
 6 Sections 1 - 36
 7 (9) Township 2 North, Range 8 West, Fairbanks Meridian
 8 Sections 1 - 36
 9 (10) Township 2 North, Range 9 West, Fairbanks Meridian
 10 Sections 1 - 36
 11 (11) Township 2 North, Range 10 West, Fairbanks Meridian
 12 Section 3
 13 Sections 8 - 10
 14 Section 11: S1/2N1/2, S1/2
 15 Section 12: S1/2N1/2, S1/2
 16 Sections 13 - 36
 17 (12) Township 2 North, Range 11 West, Fairbanks Meridian
 18 Sections 13 - 15
 19 Sections 22 - 27
 20 Sections 34 - 36
 21 (13) Township 3 North, Range 6 West, Fairbanks Meridian
 22 Sections 13 - 36
 23 (14) Township 3 North, Range 7 West, Fairbanks Meridian
 24 Sections 6 - 8
 25 Section 9: S1/2S1/2
 26 Sections 13 - 36
 27 (15) Township 3 North, Range 8 West, Fairbanks Meridian
 28 Section 1
 29 Sections 5 - 10

1	Sections 14 - 23
2	Sections 25 - 36
3	(16) Township 3 North, Range 9 West, Fairbanks Meridian
4	Section 24: S1/2
5	Section 25
6	Sections 33 - 36
7	(17) Township 3 North, Range 10 West, Fairbanks Meridian
8	Sections 34 - 35
9	(18) Township 4 North, Range 6 West, Fairbanks Meridian
10	Sections 2 - 9
11	Sections 16 - 21
12	(19) Township 4 North, Range 7 West, Fairbanks Meridian
13	Sections 1 - 4
14	Section 5: S1/2
15	Section 6: S1/2
16	Sections 7 - 24
17	Sections 30 - 31
18	(20) Township 4 North, Range 8 West, Fairbanks Meridian
19	Sections 10 - 15
20	Sections 22 - 27
21	Sections 30 - 31
22	Sections 35 - 36
23	(21) Township 5 North, Range 5 West, Fairbanks Meridian
24	Section 6: W1/2
25	Section 7: W1/2
26	Section 18: W1/2
27	(22) Township 5 North, Range 6 West, Fairbanks Meridian
28	Sections 1 - 3
29	Section 4: SE1/4

1 Section 9: E1/2
2 Sections 10 - 15
3 Section 16: E1/2, SW1/4
4 Section 20: S1/2
5 Sections 21 - 29
6 Sections 31 - 36
7 (23) Township 5 North, Range 7 West, Fairbanks Meridian
8 Section 35: SE1/4
9 Section 36: S1/2
10 (24) Township 1 South, Range 6 West, Fairbanks Meridian
11 Sections 5 - 8
12 Sections 17 - 20
13 Sections 29 - 31
14 (25) Township 1 South, Range 7 West, Fairbanks Meridian
15 Sections 1 - 36
16 (26) Township 1 South, Range 8 West, Fairbanks Meridian
17 Sections 1 - 2
18 Sections 11 - 14
19 Sections 23 - 26
20 Sections 35 - 36
21 (27) Township 1 South, Range 9 West, Fairbanks Meridian
22 Sections 1 - 36
23 (28) Township 1 South, Range 10 West, Fairbanks Meridian
24 Sections 7 - 36
25 (29) Township 1 South, Range 11 West, Fairbanks Meridian
26 Sections 25 - 26
27 Sections 35 - 36
28 (30) Township 2 South, Range 6 West, Fairbanks Meridian
29 Section 6: S1/2NW1/4, S1/2

1 Section 7: all North and West of the Alaska Railroad
2 right-of-way

3 Section 18: all North and West of the Alaska Railroad
4 right-of-way

5 Section 19: all North and West of the Alaska Railroad
6 right-of-way

7 (31) Township 2 South, Range 7 West, Fairbanks Meridian

8 Sections 1 - 12

9 Section 13: NE1/4, E1/2NW1/4, NE1/4SW1/4, S1/2SW1/4,
10 SE1/4

11 Section 14: W1/2

12 Sections 15 - 22

13 Section 23: W1/2

14 Section 24: all North and West of the Alaska Railroad
15 right-of-way

16 Section 27: NW1/4

17 Sections 28 - 32

18 Section 33: NE1/4NE1/4, W1/2NE1/4, W1/2, W1/2SE1/4

19 (32) Township 2 South, Range 8 West, Fairbanks Meridian

20 Section 1

21 Sections 12 - 13

22 Sections 24 - 25

23 Section 36

24 (33) Township 2 South, Range 9 West, Fairbanks Meridian

25 Sections 1 - 12

26 Section 17: W1/2NW1/4, NW1/4SW1/4

27 Section 18

28 Section 19: N1/2, N1/2S1/2

29 (34) Township 2 South, Range 10 West, Fairbanks Meridian

Changed from
S1/2SW1/2

Changed from 1/4NW1/1

1 Sections 1 - 20
 2 Section 21: NE1/4, W1/2
 3 Section 22: NW1/4
 4 Section 24: N1/2, N1/2S1/2
 5 Sections 29 - 31
 6 (35) Township 2 South, Range 11 West, Fairbanks Meridian
 7 Sections 1 - 5
 8 Sections 7 - 36
 9 (36) Township 2 South, Range 12 West, Fairbanks Meridian
 10 Sections 25 - 26
 11 Sections 35 - 36
 12 (37) Township 3 South, Range 7 West, Fairbanks Meridian
 13 Section 5: N1/2NE1/4, W1/2
 14 Sections 6 - 7
 15 Section 18: NE1/4, W1/2, N1/2SE1/4, SW1/4SE1/4
 16 (38) Township 3 South, Range 8 West, Fairbanks Meridian
 17 Section 1
 18 Section 12
 19 Section 13
 20 Section 22: NE1/4 (that portion above the ordinary
 21 high water mark right bank Tanana River)
 22 Section 23: N1/2, SE1/4
 23 Section 24: N1/2, SW1/4
 24 Section 25: NW1/4
 25 (39) Township 3 South, Range 11 West, Fairbanks Meridian
 26 Sections 2 - 10
 27 Section 11: N1/2
 28 Section 14: SW1/4NE1/4, S1/2NW1/4, SW1/4, W1/2SE1/4
 29 Sections 15 - 21

1 Section 22: NE1/4, W1/2, W1/2SE1/4
2 Section 23: NW1/4
3 Section 27: W1/2NE1/4, NW1/4, W1/2SW1/4
4 Sections 28 - 31
5 Section 32: NE1/4, NW1/4, SE1/4
6 Section 33: W1/2
7 (40) Township 3 South, Range 12 West, Fairbanks Meridian
8 Sections 1 - 2
9 Sections 11 - 14
10 Sections 23 - 26
11 Sections 35 - 36

12 (b) The Minto Flats State Game Refuge is established to guaran-
13 tee *changed from "ensure"*

- 14 (1) the protection and enhancement of habitat;
 - 15 (2) the conservation of fish and wildlife; and
 - 16 (3) the continuation of hunting, fishing, trapping and
- 17 other uses compatible with the protection of habitat and the conserva-
18 tion of fish and wildlife.

19 (c) The state may not acquire by eminent domain privately owned
20 land within the Minto Flats State Game Refuge, but may acquire pri-
21 vately owned land by purchase, exchange, or otherwise for inclusion in
22 the Minto Flats State Game Refuge.

23 (d) Public access to the Minto Flats State Game Refuge by means
24 of horse, boat, aircraft, dog team, snowmachine, or other means con-
25 sistent with (b) of this section may not be prohibited.

26 *Added* (e) Reasonable ingress to and egress from private property
27 within the Minto Flats State Game Refuge shall be guaranteed *Added* through
28 access corridors established through agreement between the Department
29 of Natural Resources, the Department of Fish and Game, and the private

1 property owners involved.

2 (f) The Department of Fish and Game [and the Department of
3 Natural Resources shall exercise their respective authorities over the
4 Minto Flats State Game Refuge consistent with a management plan pre-
5 pared by the Department of Fish and Game in consultation with the
6 Department of Natural Resources.]

Added

7 (g) In the Minto Flats State Game Refuge management plan the
8 commissioner of fish and game shall recognize the existence of his-
9 toric trails and shall provide access across the refuge to the extent
10 consistent with (b) of this section.

11 (h) Land and water within the Minto Flats State Game Refuge that
12 is closed to mineral entry by the commissioner of natural resources
13 under the Tanana Basin management plan is closed to mineral entry
14 under AS 38.05.185 - 38.05.275. In the Minto Flats State Game Refuge
15 management plan, the commissioner of fish and game shall recommend to
16 the commissioner of natural resources which other portions of the
17 refuge, if any, should be closed to mineral entry under AS 38.05.185 -
18 38.05.275.

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

Anch.

Debbie Clauson 267-2330

Ellen Fritz 4105

used to know

how many legislatively
designated wildlife refuges
or critical habitat areas
there are

and 9 ^{state} game ^{refuges}
—

how many acres in each

wildlife refuges -

critical habitat areas -

- 2 state game Sanct
- 11 state critical habitat areas

Taura Area Basin Plan

Kerry Howard - Habitat
F & G

Capital Office Park

Down
behind Dept. of Labour



ALASKA MINERS ASSOCIATION, INC.

AIRBANKS BRANCH

January 10, 1987

Senator Jack Coghill
30 Capitol Building
Pouch V, Juneau 99811

OFFICE COPY

Subject: Minto Flats Refuge

Dear Senator Coghill,

Many miners have very serious concerns with some of the elements of the proposed Minto Flats Game Refuge, and we feel that the start of the legislative session is an opportune time to acquaint you with these concerns. We are not opposed to the proposal in concept, but have serious problems with some of the particulars. The most disturbing is the blanket closure of the area to mineral entry. It was explained to the miners that the Fish and Game Habitat Division is worried that unscrupulous persons will falsely file mining claims in order to have a cabin in the proposed refuge to hunt from, and that it would be inconvenient to adjudicate the validity of such claims. We feel that a blanket mineral closure of a completely unexplored area for the sake of administrative convenience is a dangerous concept. Fish and Game Habitat Division may well be cutting the throat of Alaska's economic future with this kind of thinking. We feel very strongly that this concept is unjustifiable because there are procedures to challenge the validity of improper claims and a mineral closure will be of no benefit to the stated purposes of the proposed refuge. There is no present conflict in use, and decisions on mineral closures should be made based on proper mineral assessment .

We also are very concerned that the proposed refuge extensions will block access to important sections of the Tanana Valley State Forest, specifically Sections 1A, 1B, 1C, 2A, 2B, 2C, and 3B. Section 2 of the forest contains much of the sustained yield timber that is scheduled to be harvested. With the present economy we feel that the Habitat Division is unjustified to pre-empt employment opportunities. Further, the proposed refuge would block the traditional use of the Dunbar Trail, the Manley Hot Springs-Fairbanks Trail, and the Commissioner's Trail. There also has been no discussion of access that takes place over waters that are navigable. We are concerned that the priorities as enumerated in the proposal will effectively



block access. To quote the proposal at (b), "...Refuge is established to ensure the protection and enhancement of habitat and the conservation of fish and wildlife species dependent thereon; and to guarantee its continued use and enjoyment by the public for hunting, fishing, trapping and other uses compatible with the protection of habitat and the conservation of the fish and wildlife species. (c) Public access including, but not limited to, the use of horses, boats, aircraft, dog teams and snowmachines is guaranteed provided that such use is consistent with (b) of this section." End quote. We are extremely suspicious of this wording, we feel there is deception here. Who will make this consistency determination and on what basis? What kind of mechanized vehicle is compatible with the protection of habitat? What does "enhancement of habitat" mean, anyway? How does hunting and fishing conserve fish and wildlife? Why is mining implied to be an incompatible use? These are serious questions that are in the minds of many miners.

We feel that the Minto Flats Game Refuge proposal, as it is presently written, is a lock-up for the benefit of a few and not in the best interest of the State of Alaska

Sincerely,

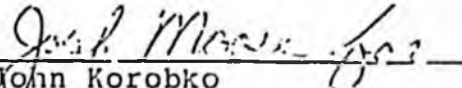
Del Ackels
 Del Ackels
 Chairman, Alaska Miners Association

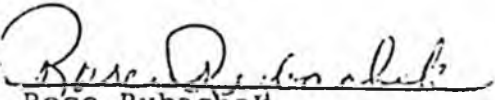
cc: Senate Resources
 House Resources


Subject: AMA response to Minto Flats Game Refuge.

It is also the objective of these groups that this letter of intent be incorporated as part of the Legislative record during the establishment of the Minto Flats State Game Refuge.

Sincerely,


John Korobko
President
Placer Miners of Alaska
P.O. Box 73756
Fairbanks, Alaska 99701


Rose Rybachej
President
Livengood-Tolovana Mining District
P.O. Box 73069
Fairbanks, Alaska 99707


Bob Aumiller
President
Miners Advocacy Council
P.O. Box 83909
Fairbanks, Alaska 99708



Greater Fairbanks

Chamber

of Commerce

First National Center

P.O. Box 74446

100 Cushman Street

(907) 452-1105

Fairbanks, Alaska 99707

RESOLUTION 3-0487

MINTO FLATS STATE GAME REFUGE

- WHEREAS, SB-55 has been introduced in the Legislature to create a Minto Flats State Game Refuge in the Minto Flats area; and
- WHEREAS, the proposed refuge is intended to protect and enhance habitat, conserve fish and wildlife, and allow the continuation of hunting, fishing, trapping, and other compatible uses; and
- WHEREAS, the Department of Natural Resources Tanana Basin Area Plan, already in effect, is capable of offering similar resource protection; and
- WHEREAS, State land in the Minto Flats area should continue to be managed under the provisions of the Tanana Basin Area Plan; and
- WHEREAS, much of the proposed refuge is already designated as the Minto Game Management Area for the purposes of game management; and
- WHEREAS, the Minto Flats area should continue to be designated as the Minto Game Management Area for the purposes of managing game resources; and
- WHEREAS, there is no identifiable impending threat to the habitat or resources of Minto Flats which makes its designation as a game refuge desirable or necessary; and
- WHEREAS, Minto Flats is an important recreation area for the surrounding communities; and
- WHEREAS, land designations such as "game refuge" have historically facilitated stringent restrictions, management plans and court decisions which decrease the ability of the public to access the land and utilize its resources in even a traditional manner; and
- WHEREAS, such stringent restrictions increase over time to the point that the original purpose for the designation is negated; and
- WHEREAS, the proposed refuge includes portions of existing trails which are protected by RS 2477 rights-of-way, and which are important as access to and through the area, and

WHEREAS, the proposed refuge would overlie portions of identified corridors for possible future transportation system extensions west from Nenana, and north and west from Dunbar, to westerr. Alaska, and/or to mineral deposits in the Kobuk River area; and

WHEREAS, the proposed refuge overlies one of the alignment alternatives for the proposed TransAlaska Gas System Pipeline; and

WHEREAS, the refuge proposal includes a mineral closure for which there is no need;

NOW, THEREFORE, be it resolved that State land in the Minto Flats area should NOT be designated as a State Game Refuge.

DATED THIS Fourteenth DAY OF April, 1987
BY James P. Dodson BY Althea St. Martin
James Dodson, Chairman of the Board Althea St. Martin, Acting President

MEMORANDUM

To: Jack Cogh:⁺
From: Mike Dalton *Mike Dalton*
Subj: Proposing "Minto Game Refuge"
Date: Monday, Oct. 14, 1985

As a result of the State's involvement with the Tanana Basin Plan, the habitat division of the Fish and Game Dept. has taken the signal from the various planners (and division people) and put on maps a proposed game refuge that will include all or most of the Minto Flats.

The region falls in Sackett's and your districts.

Minto village has already selected some lands around their village (new village of Minto) that includes many of the Minto Lakes.

I got a briefing from Scott Grundy of Habitat Division of Fish and Game this morning. I enclose a prepared outline he gave me which he used when he made the same presentation to the Tanana Valley Sportsmens' Association (TVSA) last Tuesday evening.

We were the first office (personnel) he contacted. He is going to talk to Bennett or a staff person...Fahrenkamp, too. Also, he will be contacting House members to let them know that a proposal is being put together.

Ideally, they would want the Governor to introduce a bill, but I think they see the roadblocks that would pop up if he did such a thing. Another approach is to have two or more Legislators introduce the measure.

I suggested that with the subsistence issue coming before the Legislature in 1986, this Minto Refuge may get caught up in that argument and not get a fair hearing.

I told Grundy that you would be willing to look at this proposal since part of it is in your district, but I added that you would not be too interested in co-sponsoring such a bill unless the TVSA and the Outdoor Council had had a chance to study the refuge proposal and to give it their approval.

I also suggested that Dick Shultz be briefed on the issue since he is co-chair of House Resources where such a measure would be assigned (as the principal committee) for study.

I'll start a file on this.

9301.0.13

ALASKA LAND ACREAGE SUMMARY
December 31, 1985

	<u>Millions of Acres</u>	<u>% of Total</u>
<u>Total Land Alaska</u> -----	367.7	100.0%
<u>State Land Entitlement</u> ¹ -----	104.8*	28.5%
Selected Land ² (includes over-selection) —	27.8	
Tentatively Approved -----	54.1	
Patented -----	27.7	
<u>Private Land Owned by Individuals</u> ³ -----	5.0*	1.4%
<u>Native Corporation Land Entitlement</u> ⁴ -----	43.7*	11.9%
Selected Land (includes over-selection) ⁵ —	45.6	
Interim Conveyed or Patented ⁶ -----	34.6	
<u>Total Federal Land</u> -----	217.7*	59.2%
<u>National Park System</u> ⁷ -----	51.0**	(13.9%)
(Parks Acreage Also Within the National Wilderness Preservation System: 32.4)		
Parks/Monuments Established Prior to 1980- 7.5		
Parks/Monuments Established in Alaska Lands Act ¹¹ -----	24.6	
Preserves Established in Alaska Lands Act ¹¹ -----	18.9	
<u>U.S. Fish and Wildlife System</u> ⁸ -----	76.0**	(20.6%)
(Refuge Acreage also within the National Wilderness Preservation System: 18.6)		
Refuges Established Prior to Alaska Lands Act -----	22.3	
Refuges Established in Alaska Lands Act ¹¹ -	53.7	
<u>U.S. Forest System</u> ⁹ -----	23.2**	(6.3%)
(Forest Acreage also within the National Wilderness Preservation System: 5.4)		
Forests Established Prior to Alaska Lands Act -----	19.8	
Forests Established in Alaska Lands Act ¹¹	3.4	
<u>Bureau of Land Management</u> -----	65.0**	(17.7%)
National Petroleum Reserve-Alaska -----	22.4	
Areas Established in Alaska Lands Act ¹¹		
Conservation and Recreation Areas -----	2.2	
Nat'l Wild & Scenic Rivers System -----	1.5	
Other Alaska Lands -----	38.9	
<u>Military Lands</u> ¹⁰ -----	2.5**	(0.7%)

Note: Because of unresolved overlaps between state and Native selections and various federal designations, and because state entitlement lands may be disposed of to private owners, the sum of subtotals exceeds the statewide total.

*Figures add to statewide total.

**Figures add to federal total.

RECEIVED

MAR 17 1987

①

- SOURCES:
1. Alaska Statehood Act P.L. 85-508 (January 3, 1959)

General Grant Sec. 6(b)-----	2,550,000
Community Grant Sec. 6(a)-----	400,000
Community-National Forest Sec. 6(a)	400,000
Territorial Grants-----	1,200,000+
School Land Settlement P.L. 96-487	75,000
 2. Monthly Land Activity Report. Selected land figure includes unresolved overlaps with certain Native land selections.
 3. Represents state, federal, and municipal land disposals including an estimated 700,000 acres to be conveyed to individual Alaskan Natives under the Native Allotment Act of 1906.
 4. Alaska Native Claims Settlement Act P.L. 92-203 (December 18, 1970).
 5. Resource Assessment System, Department of Natural Resources.
 6. Bureau of Land Management, Division of ANCSA Operations.
 7. National Park Service, Department of Interior.
 8. U.S. Fish and Wildlife Service, Department of Interior.
 9. U.S. Department of Agriculture, Forest Service: Chugach Forest, 4.6 million; Tongass Forest, 15.2 million.
 10. Public Land Statistics, Bureau of Land Management, 1977.
 11. Alaska National Interest Lands Conservation Act P.L. 96-487 (December 2, 1980.)

Prepared By

Alaska Department of Natural Resources
Division of Land and Water Management

2

Original sponsors: Binkley and Kerttula

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 55 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Minto Flats State Game
7 Refuge; and providing for an effective date."

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. 16.20.037. MINTO FLATS STATE GAME REFUGE. (a) The follow-
11 ing state-owned land and water is established as the Minto Flats State
12 Game Refuge:

13 (1) Township 1 North, Range 6 West, Fairbanks Meridian

14 Sections 2 - 11

15 Sections 14 - 23

16 Sections 26 - 34

17 (2) Township 1 North, Range 7 West, Fairbanks Meridian

18 Sections 1 - 36

19 (3) Township 1 North, Range 8 West, Fairbanks Meridian

20 Sections 1 - 16

21 Sections 21 - 28

22 Section 35: E1/2

23 Section 36

24 (4) Township 1 North, Range 9 West, Fairbanks Meridian

25 Sections 1 - 12

26 (5) Township 1 North, Range 10 West, Fairbanks Meridian

27 Sections 1 - 12

28 (6) Township 1 North, Range 11 West, Fairbanks Meridian

29 Sections 1 - 4

1 Sections 8 - 17
 2 Sections 20 - 29
 3 (7) Township 2 North, Range 6 West, Fairbanks Meridian
 4 Sections 1 - 36
 5 (8) Township 2 North, Range 7 West, Fairbanks Meridian
 6 Sections 1 - 36
 7 (9) Township 2 North, Range 8 West, Fairbanks Meridian
 8 Sections 1 - 36
 9 (10) Township 2 North, Range 9 West, Fairbanks Meridian
 10 Sections 1 - 36
 11 (11) Township 2 North, Range 10 West, Fairbanks Meridian
 12 Section 3
 13 Sections 8 - 10
 14 Section 11: S1/2N1/2, S1/2
 15 Section 12: S1/2N1/2, S1/2
 16 Sections 13 - 36
 17 (12) Township 2 North, Range 11 West, Fairbanks Meridian
 18 Sections 13 - 15
 19 Sections 22 - 27
 20 Sections 34 - 36
 21 (13) Township 3 North, Range 6 West, Fairbanks Meridian
 22 Sections 13 - 36
 23 (14) Township 3 North, Range 7 West, Fairbanks Meridian
 24 Sections 6 - 8
 25 Section 9: S1/2S1/2
 26 Sections 13 - 36
 27 (15) Township 3 North, Range 8 West, Fairbanks Meridian
 28 Section 1
 29 Sections 5 - 10

1 Sections 14 - 23
 2 Sections 25 - 36
 3 (16) Township 3 North, Range 9 West, Fairbanks Meridian
 4 Section 24: S1/2
 5 Section 25
 6 Sections 33 - 36
 7 (17) Township 3 North, Range 10 West, Fairbanks Meridian
 8 Sections 34 - 35
 9 (18) Township 4 North, Range 6 West, Fairbanks Meridian
 10 Sections 2 - 9
 11 Sections 16 - 21
 12 (19) Township 4 North, Range 7 West, Fairbanks Meridian
 13 Sections 1 - 4
 14 Section 5: S1/2
 15 Section 6: S1/2
 16 Sections 7 - 24
 17 Sections 30 - 31
 18 (20) Township 4 North, Range 8 West, Fairbanks Meridian
 19 Sections 10 - 15
 20 Sections 22 - 27
 21 Sections 30 - 31
 22 Sections 35 - 36
 23 (21) Township 5 North, Range 5 West, Fairbanks Meridian
 24 Section 6: W1/2
 25 Section 7: W1/2
 26 Section 18: W1/2
 27 (22) Township 5 North, Range 6 West, Fairbanks Meridian
 28 Sections 1 - 3
 29 Section 4: SE1/4

1 Section 9: E1/2
2 Sections 10 - 15
3 Section 16: E1/2, SW1/4
4 Section 20: S1/2
5 Sections 21 - 29
6 Sections 31 - 36
7 (23) Township 5 North, Range 7 West, Fairbanks Meridian
8 Section 35: SE1/4
9 Section 36: S1/2
10 (24) Township 1 South, Range 6 West, Fairbanks Meridian
11 Sections 5 - 8
12 Sections 17 - 20
13 Sections 29 - 31
14 (25) Township 1 South, Range 7 West, Fairbanks Meridian
15 Sections 1 - 36
16 (26) Township 1 South, Range 8 West, Fairbanks Meridian
17 Sections 1 - 2
18 Sections 11 - 14
19 Sections 23 - 26
20 Sections 35 - 36
21 (27) Township 1 South, Range 9 West, Fairbanks Meridian
22 Sections 1 - 36
23 (28) Township 1 South, Range 10 West, Fairbanks Meridian
24 Sections 7 - 36
25 (29) Township 1 South, Range 11 West, Fairbanks Meridian
26 Sections 25 - 26
27 Sections 35 - 36
28 (30) Township 2 South, Range 6 West, Fairbanks Meridian
29 Section 6: S1/2NW1/4, S1/2

1 Section 7: all North and West of the Alaska Railroad
2 right-of-way

3 Section 18: all North and West of the Alaska Railroad
4 right-of-way

5 Section 19: all North and West of the Alaska Railroad
6 right-of-way

7 (31) Township 2 South, Range 7 West, Fairbanks Meridian
8 Sections 1 - 12

9 Section 13: NE1/4, E1/2NW1/4, NE1/4SW1/4, S1/2SW1/4,
10 SE1/4

11 Section 14: W1/2

12 Sections 15 - 22

13 Section 23: W1/2

14 Section 24: all North and West of the Alaska Railroad
15 right-of-way

16 Section 27: NW1/4

17 Sections 28 - 32

18 Section 33: NE1/4NE1/4, W1/2NE1/4, W1/2, W1/2SE1/4

19 (32) Township 2 South, Range 8 West, Fairbanks Meridian
20 Section 1

21 Sections 12 - 13

22 Sections 24 - 25

23 Section 36

24 (33) Township 2 South, Range 9 West, Fairbanks Meridian
25 Sections 1 - 12

26 Section 17: W1/2NW1/4, NW1/4SW1/4

27 Section 18

28 Section 19: N1/2, N1/2S1/2

29 (34) Township 2 South, Range 10 West, Fairbanks Meridian

1 Sections 1 - 20
2 Section 21: NE1/4, W1/2
3 Section 22: NW1/4
4 Section 24: N1/2, N1/2S1/2
5 Sections 29 - 31
6 (35) Township 2 South, Range 11 West, Fairbanks Meridian
7 Sections 1 - 5
8 Sections 7 - 36
9 (36) Township 2 South, Range 12 West, Fairbanks Meridian
10 Sections 25 - 26
11 Sections 35 - 36
12 (37) Township 3 South, Range 7 West, Fairbanks Meridian
13 Section 5: N1/2NE1/4, W1/2
14 Sections 6 - 7
15 Section 18: NE1/4, W1/2, N1/2SE1/4, SW1/4SE1/4
16 (38) Township 3 South, Range 8 West, Fairbanks Meridian
17 Section 1
18 Section 12
19 Section 13
20 Section 22: NE1/4 (that portion above the ordinary
21 high water mark right bank Tanana River)
22 Section 23: N1/2, SE1/4
23 Section 24: N1/2, SW1/4
24 Section 25: NW1/4
25 (39) Township 3 South, Range 11 West, Fairbanks Meridian
26 Sections 2 - 10
27 Section 11: N1/2
28 Section 14: SW1/4NE1/4, S1/2NW1/4, SW1/4, W1/2SE1/4
29 Sections 15 - 21

1 Section 22: NE1/4, W1/2, W1/2SE1/4
2 Section 23: NW1/4
3 Section 27: W1/2NE1/4, NW1/4, W1/2SW1/4
4 Sections 28 - 31
5 Section 32: NE1/4, NW1/4, SE1/4
6 Section 33: W1/2
7 (40) Township 3 South, Range 12 West, Fairbanks Meridian
8 Sections 1 - 2
9 Sections 11 - 14
10 Sections 23 - 26
11 Sections 35 - 36
12 (b) The Minto Flats State Game Refuge is established to
13 (1) ensure the protection and enhancement of habitat;
14 (2) ensure the conservation of fish and wildlife; and
15 (3) guarantee the continuation of hunting, fishing, trap-
16 ping and other uses by the public compatible with the protection and
17 enhancement of habitat and the conservation of fish and wildlife.
18 (c) The state may not acquire by eminent domain privately owned
19 land within the Minto Flats State Game Refuge, but may acquire pri-
20 vately owned land by purchase, exchange, or otherwise for inclusion in
21 the Minto Flats State Game Refuge.
22 (d) Management decisions under this section made by the commis-
23 sioner of natural resources and the commissioner of fish and game are
24 applicable only to land and water described in (a) of this section.
25 (e) ~~Public~~ access to the Minto Flats State Game Refuge by means
26 of horse, boat, aircraft, dog team, snowmachine, or other means con-
27 sistent with (b) of this section may not be prohibited.
28 (f) Access to and from private property within the Minto Flats
29 State Game Refuge shall be guaranteed through access corridors

1 established through agreement between the Department of Natural
2 Resources, the Department of Fish and Game, and the private property
3 owners involved.

4 (g) The Department of Fish and Game and the Department of
5 Natural Resources shall exercise their respective authorities over the
6 Minto Flats State Game Refuge consistent with a management plan pre-
7 pared by the Department of Fish and Game in consultation with the
8 Department of Natural Resources.

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

Deleted statutory mineral closure

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSSB 55 (Res)
PUBLISH DATE: 4/14/87

FISCAL NOTE

REQUEST:

Revision Date: Senate Res
Title: Ninto Flats Refuge
Sponsor: Binkley/Kertulla
Requestor: Senate Res. Comm.

Agency Affected: DIR
BRU: Div. Land and Water Mgt.
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Janet Burleson
Division: Land and Water Management

Phone: 465-3400
Date: 2/1/88

Approved by Commissioner: Judith W.B. 67
Agency: Land and Water Management

Date: 2-2-88

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

Alaska State Legislature

Senate Resources Committee



Sen. John B. (Jack) Coghill, Chairman
Sen. Paul Fischer, Vice-Chairman
Sen. Lloyd Jones
Sen. Arliss Sturqulewski
Sen. Jim Duncan
Sen. Fred Zharoff
Sen. Dick Eliason

Box V
Juneau, Alaska 99811
(907) 465-4907

MEMORANDUM

TO: Senate Resource Committee Members

FROM: Resource Committee Staff

RE: CS SB 55; An act establishing the Minto Flats State Game Refuge;
and providing for an effective date.

DATE: March 31, 1987

List of packet contents:

- 1) Sponsor Memorandum, March 13, 1987
- 2) Fish and Game position paper and fiscal note
- 3) DNR position paper, February 10, 1987
- 4) Draft intent paper by Scott Grundy, State Habitat Biologist
October 10, 1985
- 5) Packet from Senate C&RA committee, February 10, 1987
Includes: a) Sponsor memo 2/10/87
b) Map of proposed refuge
c) F&G bill analysis 1/23/87
d) F&G fiscal note 2/4/87
e) FBKS. Daily News Miner article 1/22/87
f) Minto Village Council letter 12/3/86
g) Alaska Miners Assn. letter 1/10/87
- 6) Three (3) Fairbanks Daily News Miner articles
Jan. 22, 29 and Feb. 11, 1987
- 7) Letter from a coalition of organizations May 27, 1986
- 8) Letter from a Dennis Higgins February 13, 1987
- 9) Public Opinion Messages Received
- 10) Alaska Lands Acreage Summary

There is one fact the committee should be aware of while considering this bill. Of the 367.7 million acres of total land area in the state of Alaska 20.6% or 76.0 million acres are in the federal refuge system, managed by the U.S. Fish and Wildlife Service.

There are 9 state game refuges, 12 critical habitat areas, and 2 game sanctuaries. Total land area involved is estimated at 1,968,500 acres.

There is virtually no categorical opposition from the interior region. Dissenting views recognize specific concerns which apply generally to this type of legislation.

With this in mind staff recommends that the policy implications be explored to the fullest.

The three general topics which are of concern are:

1. Access
2. Statutory Mineral Closure
3. Refuge Boundaries

Access encompasses several issues. One is access to and from, in the sense of transportation, another is access to use, in the sense of other resources identified in the Tanana Basin Area Plan.

For example, the proposed refuge includes lands that have been classified as forestry in the plan. Does section (b) preclude timber harvests, and if it does, is this desirable? Does the reference to section (b) in section (d), preclude access through the proposed refuge for the purpose of mineral prospecting in areas outside the refuge?

The proposed legislation acknowledges rights of ways in section (e) and historic access section (g), "to the extent consistent with (b) of this section." But it does not reserve any right of ways for public or private use, nor does it guarantee historical access for purposes other than those in section (b).

Statutory mineral closure indicates strong legislative intent for the management of the affected lands. In this proposed legislation the management implications, for lands adjacent to the refuge, particularly upstream lands, or lands surrounded by the refuge, could be quite severe depending on interpretation and implementation of the management plan. One thing is clear however. Lands which have received very little investigation as a possible source of minerals, but are none the less rated in the planning process to have a low potential for future production of minerals, suddenly have no potential to produce minerals under a statutory closure.

Refuge boundaries must be logical. Boundaries which have no relation to surface features or which are extremely irregular, not only make refuge management difficult, but can increase the cost of surveying.

Senator Johne Binkley

Alaska State Senate
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985



Finance Committee
Co-Chairman

M E M O R A N D U M

March 13, 1987

TO: SENATOR JACK COGHILL, CHAIRMAN
Senate Resources Committee

FROM: SENATOR JOHNE BINKLEY *Johne Binkley*

Subj: CS for Senate Bill 55, "An Act relating to
establishing the Minto Flats State Game Refuge."

Minto Flats is located in interior Alaska, 35 air miles west of Fairbanks adjacent to the village of Minto and five miles north of Nenana. The Minto Flats area is primarily low-lying wetlands fed by the Tolovana, Chatanika, and Tatalina Rivers and Goldstream and Washington Creeks. The flats are drained by the Tanana River. The proposed refuge encompasses approximately 792 square miles (507,136 acres).

Minto Flats supports vast concentrations of waterfowl and fur-bearing animals, as well as productive fisheries and a variety of game. The U.S. Fish and Wildlife Service has reported that the Minto Flats area is one of the highest quality waterfowl nesting habitats on the North American continent. The Service estimates that Minto Flats produces 150,000 ducks annually, supporting breeding populations averaging 213 ducks per square mile.

The Minto Flats area is used year-round by residents of Minto and Nenana as primary subsistence hunting, fishing and trapping grounds. In addition, sportsmen from Fairbanks and other areas hunt, fish and trap extensively in the Minto Flats area.

Minto Flats is the third most popular duck hunting area in the state, logging over 5,000 hunter days with over 11,000 ducks and 700 geese taken annually. Minto Flats is also one of the most productive sports fisheries in the state; each year over 800 anglers spend 1,800 days fishing in the Minto Flats area harvesting over 2,300 fish. In addition, over 100 beavers are taken each year on Minto Flats. Land otter, lynx, wolverine, wolf, red fox, mink and muskrat are also regularly trapped on the flats.

The proposed legislation to establish the Minto Flats State Game Refuge has the endorsement of a wide range of user and interest groups throughout the region. Support for the bill comes from the Alaska Outdoor Council, Arctic Audubon, Cleary Sky Sportsmen Club, Fairbanks Fish and Game Advisory Committee, Healy/Clear Fish and Game Advisory Committee, Minto Native Council, Nenana Native Council, Northern Alaska Environmental Center, Seth-de-ya-ah Corporation (Fairbanks), Tanana Chiefs Conference, and the Tanana Valley Sportsman Association.

The bill to establish the Minto Flats State Game Refuge is in response to the findings of the Tanana Basin Area Plan. The purpose of establishing the Minto Flats Refuge is to guarantee:

1. the protection and enhancement of fish and game and their habitat in the area;
2. the conservation of fish and wildlife; and
3. the perpetuation of hunting, fishing, trapping, and other uses compatible with the protection of habitat and the conservation of fish and wildlife.

The committee substitute for Senate Bill 55:

1. establishes Minto Flats State Game Refuge;
2. identifies the purpose for which the area is established;
3. provides for the management of Minto Flats State Game Refuge including development of a management plan;
4. ensures continued public access;
5. provides for acquisition of private property from willing owners;
6. guarantees continued reasonable access to private inholdings;
7. recognizes the existence of historic trails and provides for access across the refuge; and
8. closes a portion of the Minto Flats State Game Refuge to mineral access.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB55	SPONSOR Binkley
DEPARTMENT POSITION Support			
PREPARED BY Habitat Division	DATE 1/23/87	COMMISSIONER'S SIGNATURE <i>Charles H. Binkley</i>	DATE 2-5-87

SUMMARY

DEPT AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUPS AFFECTED BY BILL Hunting & Fishing Groups Nenana, Minto and Fairbanks area residents
ORGANIZATIONAL SUPPORT FOR BILL See attached Supplemental Sheet	ORGANIZATIONAL OPPOSITION TO BILL None Known

FISCAL IMPACT NONE FISCAL NOTE ATTACHED

BACKGROUND LEGISLATIVE INTENT

The purpose of establishing the Minto Flats State Game Refuge is to provide:

1. protection and enhancement for fish and wildlife habitat.
2. conservation of fish and wildlife.
3. continued opportunity for hunting, fishing and trapping.
4. other recreational opportunities

ANALYSIS OF BILL PROGRAM EFFECTS

1. Establishes Minto Flats State Game Refuge.
2. Identifies the purpose for which the area is established.
3. Provides for the management of Minto Flats State Game Refuge including development of a management plan.
4. Ensures continued public access.
5. Provides for acquisition of private property from willing owners.
6. Ensures continued access to private inholdings.
7. Closes the refuge to mineral entry.

AMENDMENTS PROPOSED

BILL ANALYSIS
(Supplemental Sheet)
Page 2 of 2

Organizational Support For Bill

AK Outdoor Council
Arctic Audubon
Clear Sky Sportsmen Club
Fbks. Fish & Game Advisory Comm.
Eealy/Clear Fish & Game Advisory Comm.
Minto Native Council
Menana Native Council
Northern AK Environmental Center
Seth-de-ya-ah Corp.
Tanana Valley Sportsmen Assoc.

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

Bill Version : S3 55
Publish Date : _____

REQUEST: _____

Revision Date: _____
Title: Minto Flats State Game
Refuge
Sponsor: Senator Binkley
Requestor: _____

Agency Affected: Fish and Game
BRU: Habitat
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL		0				
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REVENUE		0				
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FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS						
OTHER						
TOTAL		0				

POSITIONS:

FULL-TIME		0				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Roland Shanks
Division: Commissioner's Office

Phone: 465-4100
Date: 3/4/87

Approved by Commissioner: [Signature]
Agency: Fish and Game

Date: 2.5.87

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

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 10, 1987

The Honorable Arliss Sturgulewski, Chair
Community and Regional Affairs Committee
Alaska State Senate
P.O. Box V
Juneau, AK 99801

Dear Senator Sturgulewski:

Subject: SB 55, which provides for the establishment of the
Minto Flats State Game Refuge.

Recommendation: The Department of Natural Resources generally supports
the bill. However, we find that additional work is
required on mineral closure, access, and boundary
issues. We would be pleased to meet with the sponsor,
committee staff, and other resource agencies to address
these matters.

Explanation: The Department recognizes the habitat values which
provide the basis for this legislative designation.
The adoption of the Tanana Basin area plan and the
Nenana-Tokchaket Management Plan generally classified
the lands in the Refuge proposal for habitat manage-
ment. However, only a portion of the lands proposed
for the refuge were closed to mineral entry. We cannot
support closing to mineral entry all of the land
encompassed in the refuge proposal.

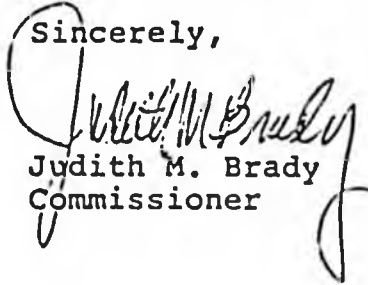
We also have concerns about the effect of Refuge status
on a number of existing access routes. We could
support language which specified provisions for future
access development and protected existing routes and
uses.

Finally, we believe that the boundaries of the bill
have been carefully crafted to include lands valuable
for habitat and exclude lands with multiple resource

February 10, 1987

management potential. In certain instances, however, we cannot ascertain the exact purpose of the sponsor. We would appreciate the opportunity to talk our way around the boundary delineated in the bill and develop a record which would provide the committee clear choices on land management issues.

Sincerely,



Judith M. Brady
Commissioner

cc: Senator John Binkley

Bob Evans, Legislative Liaison
Governor's Office

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MEMORANDUM

State of Alaska

DEPT. OF NATURAL RESOURCES / DIV. OF LAND & WATER MANAGEMENT
NORTHERN REGIONAL OFFICE

TO: Dr. Al Ott, Regional Supervisor
Div. of Fish & Game
Habitat Division

DATE: June 18, 1986


FILE NO:

TELEPHONE NO:

479-2243

SUBJECT:

Minto Flats Refuge

FROM:  Jerry D. Brossia, Manager
Div. of Land & Water Management
Northern Regional Office

The Department of Natural Resources will adhere to the intent of the Tanana Area Basin Plan to protect Minto Flats as public recreation and wildlife habitat. We also recognize that TABP recommends the Flats be legislatively designated as a special wildlife management area. While we do not object to this recommendation you must be aware that we do not have funds or staff to work on this project, or any reality actions as a result of a legislative designation.

Since the management intent of this area will not change, we do not plan to work on this issue until we receive funds from the legislature or an RSA from the Department of Fish and Game.

I hope you can understand that cut backs over the last three years has reduced my staff by almost 30% and our first priority is in responding to actions initiated by the public. Thank you for your cooperation and understanding.

/rnr

Attachment

cc. Wunnicke
Hawkins
Copeland

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

June 10, 1986

BILL SHEFFIELD, GOVERNOR

1300 COLLEGE ROAD
FAIRBANKS, ALASKA 99701

Dear Minto Flats Support Group Member:

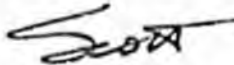
I have appreciated the opportunity to represent the Alaska Department of Fish and Game (ADF&G, in its technical support of your efforts to establish a Minto Flats State Game Refuge. At the May 27 meeting, there was interest in encouraging legislators to sponsor or support your legislative proposal. Since the meeting, some of you have expressed additional ideas along this line.

I agree to summarize my understanding of the legislators that each of you have expressed a desire to contact. A list is enclosed for your reference (Enclosure #1). It has been suggested within the group that in any personal or written contacts with legislators, it would be helpful to provide a copy of your proposed bill and letter of intent with all signators (Enclosure #2). You also might anticipate a commonly asked question as to whether refuge status would allow hunting to continue. Hunting is allowed on all state game refuges, and your draft bill is written in a manner that guarantees hunting and other public and private uses in the Minto Flats Refuge consistent with the intent of the refuge.

Legislative designation of a Minto Flats State Game Refuge is identified in the state's Tanana Basin Area Plan, and the department is prepared to provide you and your legislators with any additional technical staff assistance that you or they might request.

Again, if further assistance is desired, do not hesitate to contact me at 479-3104 or at home at 457-3526.

Sincerely,



Scott Grundy, Habitat Biologist
Habitat Division
Department of Fish and Game

Enclosures

11-
GIVE TO THE CHV
GIVE TO THE CHV

DOCUMENT minto flats
DISKETTE scott

FILE

DRAFT

October 10, 1985

SAS 5.2

479-3104

Scott Grundy
Habitat Biologist
Habitat - Fairbanks

Statement of Intent
Proposed Minto Flats
Refuge

The Minto Flats Refuge is established to ensure the protection of habitat and the conservation of fish and wildlife species dependent thereon; and for its use and enjoyment by the public for hunting, fishing, trapping and other uses compatible with the protection of habitat and the conservation of the fish and wildlife species. The Minto Flats Refuge will be managed in accordance with a management plan prepared by the Alaska Department of Fish and Game in consultation with the public.

SG:nf

Minto Flats Refuge
Proposal
October 8, 1985

Source of Nomination

TBAP - Overview

- High value fish and wildlife areas were identified
- Planning team membership

My Purpose

1. Inform you of proposed Minto Flats Refuge
2. Seek the active support of your group to be an active participant in the legislative process to acquire this area as part of the state managed refuge system.

Overview of the Departments' Special Areas Program

- Areas designated by the Alaska Legislature to be managed by the Department of Fish and Game
- It is important to understand that state lands are managed by the ADNR not ADF&G

- It is also important to understand that these special areas have nothing to do with the hunting and fishing regulatory process (seasons and bag limits, methods and means, regulation of users, etc.). Such stock and user management items are addressed via the Boards of Fisheries and Game.

- Special areas are designated by the Alaska Legislature to protect and manage fish and wildlife land and water habitat areas.

Several Classifications of Special Areas

State Refuges
State Sanctuaries
State Ranges
State Critical Habitat Areas

Focus on the State Refuge Program

- Purpose

State game refuges are multiple use areas established by the legislature for the protection of productive fish and wildlife habitats and for the public's use and enjoyment.

- Statute Authority

Alaska Statute 16.20.020 states, "The purpose (of establishing state game refuges) is to protect and preserve the natural habitat and game population in certain designated areas of the state."

- History

State game refuges have a history that is old as the State of Alaska itself. In 1960 the first two state game refuges, Izembek and Chagvan Bay (Cape Newenham), were set aside for waterfowl and shorebirds. Over the years, as one or another outstanding area came to the attention of Alaskans and their legislators, other state game refuges were established. Locally, for example, we have the Creamer's Field Waterfowl Refuge and the Delta Junction Bison Range.

- Objectives

Protection of fish and wildlife and their habitats and maintenance of public use is the primary focus of the Department of Fish and Game's game refuge management program.

- Activities

Activities which are encouraged on a refuge include hunting, fishing, trapping, public access, recreational activities (hiking, skiing, horseback riding, dog team travel, camping, mountain climbing, etc.), boating, berry picking, and many others. Other land use activities are allowed in a manner compatible with these primary values. Activities such as overland heavy equipment moves, timber removal, etc. which may impact primary uses can be authorized through a special areas permit system administered by the Habitat Division of the Department.

- Developments

Multiple uses which pre-date creation of the refuge or multiple uses which fulfill important public needs for which there is no feasible alternative site are permitted on a refuge. Prior existing rights such as cabin sites, native allotments, etc. are, of course, permitted.

- Why is it Important to Establish This Area as a State Game Refuge?

1. Creating a state game refuge guarantees that the land will remain in public ownership and will be managed to maintain fish and wildlife populations for public use and enjoyment. Such dedication will provide management of the area to the ADF&G not ADNR. Although we have a good working relationship with Natural Resources, our advise is not always followed and impacts to fish and wildlife habitat and public use occur.
2. Designation will enable the department to administer the area according to the management plan we develop for the area (with public input).
3. Designation will provide the Interior with an excellent candidate for funding by the Departments' newly developed waterfowl stamp program.

Boundaries

Proposed by TBAP

Alternative inclusions

Exclusions?

Recap of Our Intent

- ADF&G hopes to form a coalition of user groups to propose the area be designated as part of the state refuge system.

- ADF&G will work with the coalition and draft the legislation to include a description of the boundaries statement of intent, etc. For example, we suggest the following proposed statement of intent:

The Minto Flats Refuge is established to ensure the protection of trumpeter swans and other waterfowl, furbearers, big game and other fish and wildlife species and their habitats; and for its use and enjoyment by the public in a manner compatible with the protection of the fish and wildlife and their habitats. The Minto Flats Refuge will be managed in accordance with a management plan prepared by the Alaska Department of Fish and Game in consultation with the public.

- After discussion, if you are comfortable with the nomination, I recommend you appoint a member or group to work with the department and contact your legislators.

Discussion



Alaska State Legislature

SENATE

P.O. Box V
State Capitol
Juneau, Alaska 99811

TO: Senate C&RA Members

Feb 10, 1987

FROM: Senate C&RA Staff

NEK

RE: SB 55 - Minto Flats State Game Refuge

Enclosed in this packet is a memo and sectional analysis of SB 18 provided by the prime sponsor, a map of the affected area, a letter and zero fiscal note from Fish and Game, a news article on the proposed refuge, and letters from the Minto Village Council and the Alaska Miners Association.

A position paper and fiscal note from DNR has not yet been received, however representatives of the department will be at the meeting and they hope to have a position prepared by that time.

Senator Johne Binkley

Alaska State Senate
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985



Finance Committee
Co-Chairman

M E M O R A N D U M

February 10, 1987

TO: SENATOR ARLISS STURGULEWSKI, CHAIRPERSON
Senate Community and Regional Affairs Committee

FROM: SENATOR JOHN BINKLEY *John*

Subj: Senate Bill 55, "An Act relating to establishing the
Minto Flats State Game Refuge."

Minto Flats is located in interior Alaska, 35 air miles west of Fairbanks adjacent to the village of Minto and five miles north of Nenana. The Minto Flats area is primarily low-lying wetlands fed by the Tolovana, Chatanika, and Tatalina Rivers and Goldstream and Washington Creeks. The flats are drained by the Tanana River. The proposed refuge encompasses approximately 792 square miles (507,136 acres).

Minto Flats supports vast concentrations of waterfowl and fur-bearing animals, as well as productive fisheries and a variety of game. The U.S. Fish and Wildlife Service has reported that the Minto Flats area is one of the highest quality waterfowl nesting habitats on the North American continent. The Service estimates that Minto Flats produces 150,000 ducks annually, supporting breeding populations averaging 213 ducks per square mile.

The area is used year-round by residents of Minto and Nenana as primary subsistence hunting, fishing and trapping grounds. It is also a popular hunting, fishing and trapping area for residents of Fairbanks and the surrounding area. Minto Flats is the third most popular duck hunting area in the state, logging over 5,000 hunter days with over 11,000 ducks and 700 geese taken annually. The Minto Flats is one of the most productive sports fisheries in the state; each year over 800 anglers spend 1,800 days fishing in the Minto Flats area harvesting over 2,300 fish. In addition, over 100 beavers are taken each year on Minto Flats. Land otter, lynx, wolverine, wolf, red fox, mink and muskrat are also regularly trapped on the flats.

Hydraulic gold mining activity in the Chatanika River drainage and Goldstream Creek from the early 1920's to 1963 dumped an estimated 100 million cubic yards of hydraulic muck onto Minto Flats, altering hydrology, vegetation, habitat, and drainage patterns on the flats. Since 1963, over a dozen

placer mines have operated in the Minto Flats watershed in the Chatanika and Tolovana rivers and Goldstream Creek. Although of much less impact than the earlier hydraulic mining activity, two of these placer mines did not meet EPA standards for settleable solids in 1984. It should be noted that at the present time, there is no mining activity occurring on the flats.

The bill to create the Minto Flats State Game Refuge is in response to the findings of the Tanana Basin Area Plan. The purpose of establishing the Minto Flats Refuge is to:

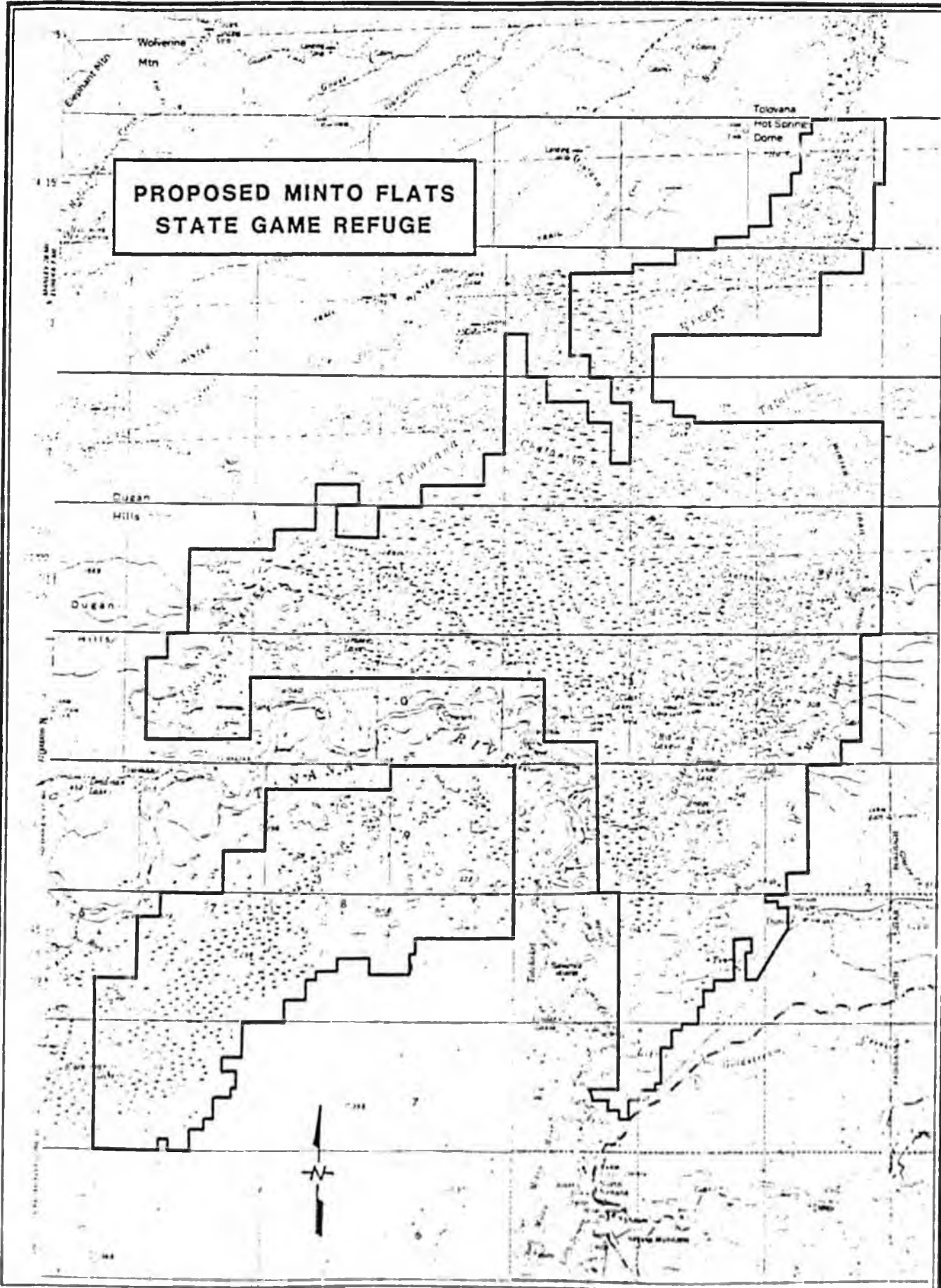
1. protect and enhance fish and game and their habitat in the area;
2. ensure the perpetuation of hunting, fishing, and trapping activities in accordance with harvest regulations as established by the Boards of Fisheries and Game;
3. ensure historical and customary access to private lands consistent with the provisions of the bill;
4. perpetuate nonconsumptive uses.

The bill would accomplish the following:

1. Establishes Minto Flats State Game Refuge.
2. Identifies the purpose for which the area is established.
3. Provides for the management of Minto Flats State Game Refuge including development of a management plan.
4. Ensures continued public access.
5. Provides for acquisition of private property from willing owners.
6. Ensures continued access to private inholdings.
7. Closes the refuge to mineral access.

The proposed legislation to establish the Minto Flats State Game Refuge has the support of a wide range of user and interest groups throughout the region. Support for the bill comes from the Alaska Outdoor Council, Arctic Audubon, Cleary Sky Sportsmen Club, Fairbanks Fish and Game Advisory Committee, Healy/Clear Fish and Game Advisory Committee, Minto Native Council, Nenana Native Council, Northern Alaska Environmental Center, Seth-de-ya-ah Corporation (Fairbanks), and Tanana Valley Sportsman Association.

**PROPOSED MINTO FLATS
STATE GAME REFUGE**





STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB55	SPONSOR Binkley
DEPARTMENT POSITION Support			
PREPARED BY Habitat Division	DATE 1/23/87	COMMISSIONER'S SIGNATURE <i>Paul W. ...</i>	DATE 2-5-87

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUPS, AFFECTED BY BILL Hunting & Fishing Groups Nenana, Minto and Fairbanks area residents
ORGANIZATIONAL SUPPORT FOR BILL See attached Supplemental Sheet	ORGANIZATIONAL OPPOSITION TO BILL None Known

FISCAL IMPACT NONE FISCAL NOTE ATTACHED

BACKGROUND LEGISLATIVE INTENT

The purpose of establishing the Minto Flats State Game Refuge is to provide:

1. protection and enhancement for fish and wildlife habitat.
2. conservation of fish and wildlife.
3. continued opportunity for hunting, fishing and trapping.
4. other recreational opportunities

ANALYSIS OF BILL PROGRAM EFFECTS

1. Establishes Minto Flats State Game Refuge.
2. Identifies the purpose for which the area is established.
3. Provides for the management of Minto Flats State Game Refuge including development of a management plan.
4. Ensures continued public access.
5. Provides for acquisition of private property from willing owners.
6. Ensures continued access to private inholdings.
7. Closes the refuge to mineral entry.

AMENDMENTS PROPOSED

BILL ANALYSIS
(Supplemental Sheet)
Page 2 of 2

Organizational Support For Bill

AK Outdoor Council
Arctic Audubon
Clear Sky Sportsmen Club
Fbks. Fish & Game Advisory Comm.
Healy/Clear Fish & Game Advisory Comm.
Minto Native Council
Nenana Native Council
Northern AK Environmental Center
Seth-de-ya-ah Corp.
Tanana Valley Sportsmen Assn.

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

Bill Version: SB 55
Publish Date: _____

REQUEST: _____

Revision Date: _____
Title: Minto Flats State Game
Refuge
Sponsor: Senator Binkley
Requestor: _____

Agency Affected: Fish and Game
BRU: Habitat
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS						
OTHER						
TOTAL		0				

POSITIONS:

FULL-TIME		0				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Roland Shanks
Division: Commissioner's Office

Phone: 465-4100
Date: 2/4/87

Approved by Commissioner: [Signature]
Agency: Fish and Game

Date: 2.5.87

Distribution (by preparer):

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

Bill would make Minto Flats refuge

UNEAU—A marshy flatland tered about 40 miles west of rbanks may become a state ilife refuge if a bill introduced state Sen. John Binkley, R-hel, is approved.

inkley, a former Fairbanksan, he introduced a bill to establish Minto Flats State Game Refuge he request of the Minto Village ncil. Minto is located on the tern edge of the proposed re- e area.

he flats are heavily used by hun- , trappers and fishermen from nto, Nenana and Fairbanks. kley said the legislation was in- led to protect the fish and wild- populations and perpetuate h uses.

It's an important area to the ple of Minto and really to the ple of Fairbanks," Binkley l.

inkley, and several other law- kers, received a letter this ng asking the legislation be in- luded. Ten Native, environmen- and hunting and fishing groups ed the request.

he interested groups said they at hunting, fishing and trapping ontinue on the refuge. They also at most forms of travel to be ved in the refuge without res-

triction, including snowmachines, floatplanes and boats.

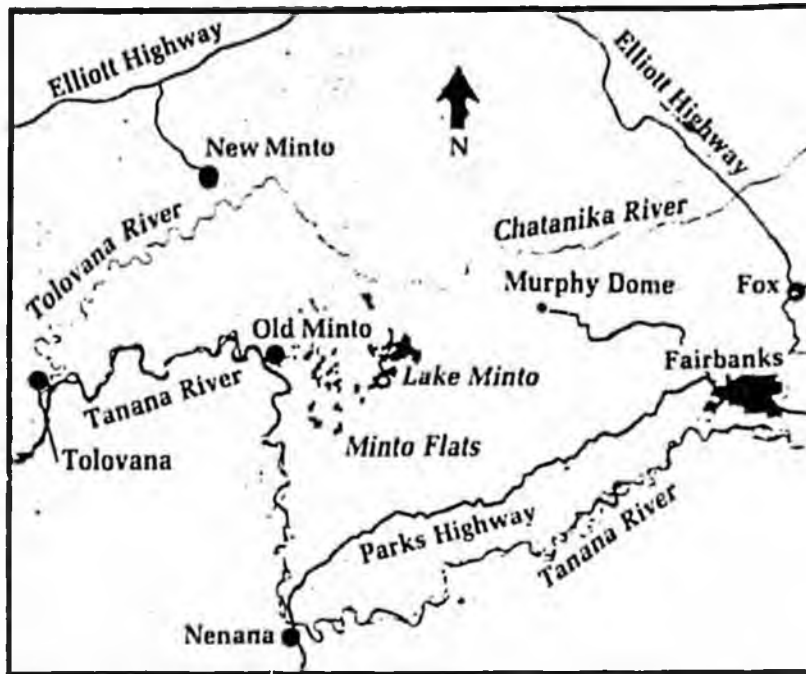
Binkley also noted the Tanana Valley Area Basin Plan suggested the legislation be introduced. The plan was completed in 1984 by the Department of Natural Resources, with the assistance of other state agencies. It outlines optimum uses for state land in the Tanana Valley, as determined by public and agency comments as well as general resource surveys.

Boundaries of the refuge may need some work still, Binkley said. The village council of Minto has requested the boundaries include the banks of the Tanana River, he said. A map submitted with the letter from the interested groups indicated the boundary would be mostly set back from the river.

"There's also some concern in the mining community over a statement in the legislation," Binkley said. The bill says the refuge should be closed to mineral claim entry.

"It's not really a substantive concern. There are no mines in the area and very little potential for mining," Binkley said. "It's the principle of the thing. They don't like to see that wording anyplace."

The 10 interesting groups included: the Minto village corpora-



PRIME WATERFOWL AREA—A recently introduced bill would establish the Minto Flats State Game Refuge. Minto is located on the western edge of the proposed refuge area. The flats are heavily used by hunters, trappers and fishermen from Minto, Nenana and Fairbanks.

tion, the Northern Alaska Environmental Center, the Nenana Native Council, the Minto Native Council, the Healy/Clear and Fairbanks fish and game advisory committees, the Cleary Sky Sportsmen Club, the Arctic Audubon Society and the Alaska Outdoor Council.

In their letter, they said the U.S. Fish and Wildlife Service has described the flats as "one of the high-

est quality waterfowl nesting habitats on the North American continent."

The letter quoted figures from the Alaska Department of Fish and Game, which estimated, in 1984 that hunters shot 11,685 ducks in the Minto Flats, or 11.5 percent of the statewide harvest. Also, an esti-

(See MIN. O, Back Page)

MINTO

(Continued from page 1)

ated 777 geese were shot in the area, about 5 percent of the statewide harvest.

No acreage for the proposed refuge was included in the bill. The boundaries at present would encompass marshy flatlands stretching from Nenana to the Tolovana River, Hot Springs Dome and from Murphy Dome west to the Tolovana River. The refuge would also include a large block west of Nenana and south of the Tanana River.

FAIRBANKS NEWS MINER 1/22/87



Minto Village Council

Minto, Alaska 99758

(907) 798-8007
7112

December 3, 1986



Mr. John Binkley
Senator, Alaska Legislature
P.O. Box 1065
Bethel, AK 99559

Dear Mr. Binkley:

Congratulations on your bid for the Alaska state legislature.

The Minto Village Council is working on putting the Minto Flats into a state refuge. The Minto Village Council doesn't agree with the boundaries as they are now. We want the refuge to go all the way to the river banks of the Tanana River. We would like both sides of the river bank to be included in the refuge.

We took this concern to the people of Minto at a general meeting on November 13, 1986, and they were also concerned about banks of the Tanana River. Our concern is for the future disposals of lands along the river and commercial development along the banks.

The refuge is for a wildlife habitat, and preservation of the animals and their habitat. We would appreciate your support in our efforts. The Minto Flats are of great concern to each resident of Minto.

Sincerely,

Philip Titus

Philip Titus, Member
Minto Village Council
P.O. Box 26
Minto, AK 99758

PT/nc

Enclosure





ALASKA MINERS ASSOCIATION, INC.

FAIRBANKS BRANCH

January 10, 1987

JAN 19 1987

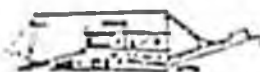
Senator Jack Coghill
30 Capitol Building
Pouch V, Juneau 99811

Subject: Minto Flats Refuge

Dear Senator Coghill,

Many miners have very serious concerns with some of the elements of the proposed Minto Flats Game Refuge, and we feel that the start of the legislative session is an opportune time to acquaint you with these concerns. We are not opposed to the proposal in concept, but have serious problems with some of the particulars. The most disturbing is the blanket closure of the area to mineral entry. It was explained to the miners that the Fish and Game Habitat Division is worried that unscrupulous persons will falsely file mining claims in order to have a cabin in the proposed refuge to hunt from, and that it would be inconvenient to adjudicate the validity of such claims. We feel that a blanket mineral closure of a completely unexplored area for the sake of administrative convenience is a dangerous concept. Fish and Game Habitat Division may well be cutting the throat of Alaska's economic future with this kind of thinking. We feel very strongly that this concept is unjustifiable because there are procedures to challenge the validity of improper claims and a mineral closure will be of no benefit to the stated purposes of the proposed refuge. There is no present conflict in use, and decisions on mineral closures should be made based on proper mineral assessment .

We also are very concerned that the proposed refuge extensions will block access to important sections of the Tanana Valley State Forest, specifically Sections 1A, 1B, 1C, 2A, 2B, 2C, and 3B. Section 2 of the forest contains much of the sustained yield timber that is scheduled to be harvested. With the present economy we feel that the Habitat Division is unjustified to pre-empt employment opportunities. Further, the proposed refuge would block the traditional use of the Dunbar Trail, the Manley Hot Springs-Fairbanks Trail, and the Commissioner's Trail. There also has been no discussion of access that takes place over waters that are navigable. We are concerned that the priorities as enumerated in the proposal will effectively



block access. To quote the proposal at (b), "...Refuge is established to ensure the protection and enhancement of habitat and the conservation of fish and wildlife species dependent thereon; and to guarantee its continued use and enjoyment by the public for hunting, fishing, trapping and other uses compatible with the protection of habitat and the conservation of the fish and wildlife species. (c) Public access including, but not limited to, the use of horses, boats, aircraft, dog teams and snowmachines is guaranteed provided that such use is consistent with (b) of this section." End quote. We are extremely suspicious of this wording, we feel there is deception here. Who will make this consistency determination and on what basis? What kind of mechanized vehicle is compatible with the protection of habitat? What does "enhancement of habitat" mean, anyway? How does hunting and fishing conserve fish and wildlife? Why is mining implied to be an incompatible use? These are serious questions that are in the minds of many miners.

We feel that the Minto Flats Game Refuge proposal, as it is presently written, is a lock-up for the benefit of a few and not in the best interest of the State of Alaska

Sincerely,

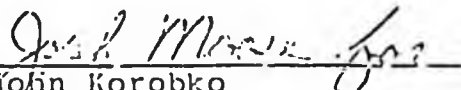
Del
Del Ackels
Chairman, Alaska Miners Association

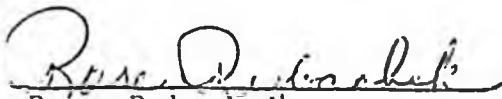
cc: Senate Resources
House Resources

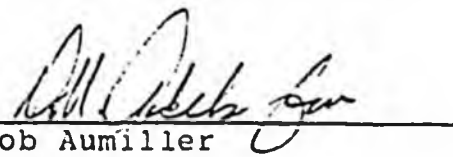
Subject: AMA response to Minto Flats Game Refuge.

It is also the objective of these groups that this letter of intent be incorporated as part of the Legislative record during the establishment of the Minto Flats State Game Refuge.

Sincerely,


John Korobko
President
Placer Miners of Alaska
P.O. Box 73756
Fairbanks, Alaska 99701


Rose Rybachek
President
Livengood-Tolovana Mining District
P.O. Box 73069
Fairbanks, Alaska 99707


Bob Aumiller
President
Miners Advocacy Council
P.O. Box 83909
Fairbanks, Alaska 99708

Bill would make Minto Flats refuge

JUNEAU—A marshy flatland centered about 40 miles west of Fairbanks may become a state wildlife refuge if a bill introduced by state Sen. John Binkley, R-Bethel, is approved.

Binkley, a former Fairbanksan, said he introduced a bill to establish the Minto Flats State Game Refuge at the request of the Minto Village Council. Minto is located on the western edge of the proposed refuge area.

The flats are heavily used by hunters, trappers and fishermen from Minto, Nenana and Fairbanks. Binkley said the legislation was intended to protect the fish and wildlife populations and perpetuate such uses.

"It's an important area to the people of Minto and really to the people of Fairbanks," Binkley said.

Binkley, and several other lawmakers, received a letter this spring asking the legislation be introduced. Ten Native, environmental, and hunting and fishing groups signed the request.

The interested groups said they want hunting, fishing and trapping to continue on the refuge. They also want most forms of travel to be allowed in the refuge without res-

triction, including snowmachines, floatplanes and boats.

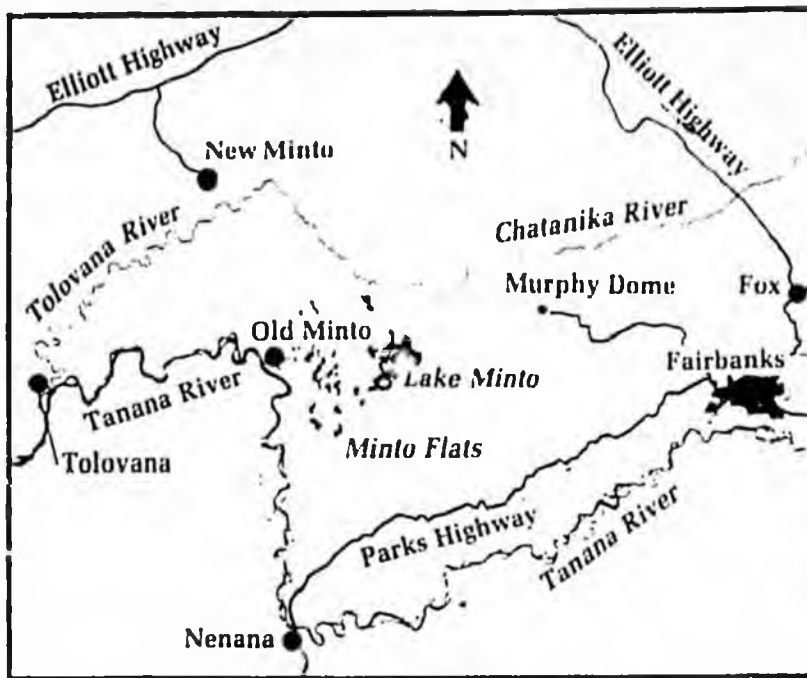
Binkley also noted the Tanana Valley Area Basin-Plan suggested the legislation be introduced. The plan was completed in 1984 by the Department of Natural Resources, with the assistance of other state agencies. It outlines optimum uses for state land in the Tanana Valley, as determined by public and agency comments as well as general resource surveys.

Boundaries of the refuge may need some work still, Binkley said. The village council of Minto has requested the boundaries include the banks of the Tanana River, he said. A map submitted with the letter from the interested groups indicated the boundary would be mostly set back from the river.

"There's also some concern in the mining community over a statement in the legislation," Binkley said. The bill says the refuge should be closed to mineral claim entry.

"It's not really a substantive concern. There are no mines in the area and very little potential for mining," Binkley said. "It's the principle of the thing. They don't like to see that wording anywhere."

The 10 interesting groups included: the Minto village corpora-



PRIME WATERFOWL AREA—A recently introduced bill would establish the Minto Flats State Game Refuge. Minto is located on the western edge of the proposed refuge area. The flats are heavily used by hunters, trappers and fishermen from Minto, Nenana and Fairbanks.

tion, the Northern Alaska Environmental Center, the Nenana Native Council, the Minto Native Council, the Healy/Clear and Fairbanks fish and game advisory committees, the Cleary Sky Sportsmen Club, the Arctic Audubon Society and the Alaska Outdoor Council.

In their letter, they said the U.S. Fish and Wildlife Service has described the flats as "one of the high-

est quality waterfowl nesting habitats on the North American continent."

The letter quoted figures from the Alaska Department of Fish and Game, which estimated, in 1984, that hunters shot 11,685 ducks in the Minto Flats, or 11.5 percent of the statewide harvest. Also, an esti-

(See MINTO, Back Page)

MINTO

(Continued from page 1)

mated 777 geese were shot in the area, about 5 percent of the statewide harvest.

No acreage for the proposed refuge was included in the bill. The boundaries at present would encompass marshy flatlands stretching from Nenana to the Tolovana Hot Springs Dome and from Murphy Dome west to the Tolovana River. The refuge would also include a large block west of Nenana and south of the Tanana River.

Minto Flats refuge would be fair game

"Show me a refuge on the Minto Flats, and I'll show you a place where you can't hunt, build a campfire or, for that matter, draw a deep breath for fear of a biologist or game warden looking over your shoulder," said a recent, and irate caller.

Scott Grundy, recently retired habitat biologist with 22 years tenure as an employee of the Alaska Department of Fish & Game calls this pure nonsense. Grundy acted as coordinator for a coalition formed to sample public opinion and help formulate planning of the proposed Minto refuge, one year ago.

Why an 800 square-mile refuge on the Minto Flats?

Grundy told me that there is only one real reason—to gain some assurance that the land not be relegated to a disposal process which could result in vast private ownership. This, in turn, would effectively make the area off limits to general use by sportsmen.

"Such a process could take several forms," Grundy explained. "The administration could simply create a huge subdivision or the area could be



Jim Greiner

caught up in a giant land swap process."

The two expressed purposes of the proposed Minto Refuge are to make the area available for multiple use by sportsmen, and to ensure that the wildlife residing there will be afforded the best management possible during future decades.

Yet another recent caller, also reacting to the recent announcement of plans for a refuge on the Minto Flats, was a bit less hot under the collar, but obviously paranoid about permit hunts being the usual outcome of refuge designation.

"Look what happened to the area up above the Yukon River—the place now called the Yukon Flats Wildlife Refuge. It was no more set up and those few of us who had hunted there for years, could no longer do so.

Why? Because permits for use were limited to 60 some and only available to permanent residents (Game Management Unit 25D) of the area."

I pointed out that the Yukon Flats Refuge is, and always has been, under federal management.

"That may all be true," he countered, "but the ADF&G pushed for the permit hunt that was eventually established—it was their idea."

I couldn't argue with his facts.

One of the problems with the refuge concept is that it relies heavily upon the establishment of concentrated hunting pressure—pressure which exceeds the availability of land areas capable of supporting it. Only then does the effectiveness and acceptability of a refuge system become obvious to the average hunter.

I once lived in the states of New York and Michigan, both of which have long supported excessive numbers of hunters and others interested in using the shrinking wild areas in those states. I found that the only places where consistently productive waterfowling could be

found was on public refuges. They were managed not only by state game agencies but federal as well, and both produced and attracted even greater concentrations of waterfowl than did privately leased tracts adjacent to them.

Despite a burgeoning human population of its own, however, Alaska is still a remote land—a place where a hunter can venture afield and not have to worry about finding game. It's the best of two worlds, but this will not always be the case, and it is this philosophy that motivates those who would see refuge status granted to a large portion of the Minto Flats.

The most basic tenet of good game management is still that of making the most game available to the greatest numbers of hunters, for as long a time as is possible. Refuges are, quite possibly, the most effective tool with which to establish this end.

"Even if current efforts are successful," Grundy told me, "the Legislature could still, at some time during future years, reverse the status of the area and open it up to eventual public ownership. Currently, the area

is under administrative rather than legislative management and, as such, its status could be easily reversed. It all depends upon who directs the Department of Natural Resources. If a man who could care less about hunting and wildlife were appointed to the position, we would be in deep trouble—despite the existence of established refuge areas," Grundy explained.

Unlike the more arcane concept of subsistence, which is but one consideration where refuge establishment is concerned, the term "refuge" is a straightforward one. It means that there is one, and only one, prime concern—the protection of the right to its multiple use by you and I.

Grundy indicated that he would be eager to host a candid public discussion of the refuge issue, and suggests that individuals contact the ADF&G (Habitat Division) and voice their interest in such a meeting.

Just maybe this is progress in the best of its many forms.

The editor of the Alaska Trapper, Jim Greiner also is author of "Wager with the Wind" and "The Red Snow."

2/11/87

Travel routes needed

State questions Minto Flats refuge

By SAM BISHOP
News-Miner Bureau

JUNEAU—A bill to create a state wildlife refuge in the Minto Flats needs a more precise definition of possible transportation routes across the area, an official with the Department of Natural Resources said Tuesday.

Tom Hawkins, director of the Division of Land and Water Management, told the Senate Community and Regional Affairs Committee that the department supported the

refuge bill but had a few suggestions.

"They barely rise to the level of conflicts," Hawkins said. "They are just opportunities for the Legislature to be real clear."

He asked that the committee add a section to more precisely recognize historical travel routes across the flats.

The bill would create a 500,000-acre state wildlife refuge centered on the Minto Flats, an area 45 miles west of Fairbanks that is heavily

hunted and fished by residents of Fairbanks, Minto and Nenana.

Hawkins said at least three trails crossing the flats were identified by the state as transportation routes in a 1974 listing. The trails may qualify as state rights-of-way under the federal Revised Statute 2477, he said.

But Gail Gatton, director of the Alaska Environmental Lobby, told the committee she preferred a cautious approach to transportation routes.

Gatton said groups she represents, including the Northern Alaska Environmental Center in Fairbanks, want travel on historical trails limited to such methods as dogteams and snowmachines.

"I think with the (Tanana Valley State) Forest in there, there is a possibility of some of those being converted to logging roads," she said.

The proposed refuge boundaries are adjacent to the Tanana Valley State Forest in several areas.

Hawkins said the department also questioned the need to close the entire refuge to mining. He showed the committee members a map from the Tanana Valley Basin Area Plan, in which a smaller area was recommended for closure to mining claims.

Ron Silas, wildlife and parks director for Tanana Chiefs Conference, said the mineral development closures should remain. The idea behind the bill is to protect wildlife and habitat, he said.

"How can we protect it if there's going to be mining and drilling?" he asked. "The animals won't stick around."

Tanana Chiefs is a non-profit Native corporation that provides economic, legal and health assistance to villagers in Interior Alaska.

Gatton told the committee she also hoped the mineral closure would stay. No good reasons have been presented to lift it, she said.

Ron Somerville, director of the Alaska Outdoor Council, said some areas in the refuge should be closed to mining and oil development without question. Other areas could be opened without harm to wildlife, he said. The council represents hunting, fishing and other outdoor groups around Alaska.

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PLANE

(Continued from) nance the venture. The thing that's in co-pilots is the " sponse from everyo

The pilots were t ner at the Pump

FUND

(Continued from) cumulative perfor stocks growing 417 tween 1977 and 1985. 370 percent return, a 290 percent. The Uni turn was 171 percent.

Meanwhile, Cowp banking official Marc the Alaska Permanen board of trustees, but will wait to fill the sec on the board. Langland's appoi

Paul Robinson, CPA

formerly of Paul B. Robinson, CPA
and

Harry Sinz, CPA

formerly of Stock, Inc.

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\$4.59

Chicken Fried Steak and Eggs

Two eggs (cooked any style), hash brown potatoes or grits, and choice of toast, buttermilk biscuit or English muffin.

TO: Senate and House Resources Committees

FROM: Dennis P. Higgins

DATE: February 13, 1987

SUBJECT: Comments on the proposed Minto Flats State Game Refuge
SB 55

Honorable Committee Members,

Though it has come to the attention of the various groups representing the Alaska mining industry that certain clauses of SB 55 are incompatible with the future development of mineral, timber, and other natural resources, none of these clauses causes me greater consternation than the closure to mineral entry (proposed AS 16.20.037g).

It is inconceivable that in a time of severe economic hardship in Alaska, a proposal for mineral closure should be included in this bill. Not only is the reasoning for this closure flawed, but the enactment into law of this bill would create a dangerous and unsuitable precedent by allowing mineral closure for administrative expediency. The Department of Fish and Game believes that this closure would prevent the use of falsified or other bad faith mining claims to be used as a reason for hunting access. There are provisions under mineral law for addressing mining claim validity, and these provisions should not be ignored for convenience sake.

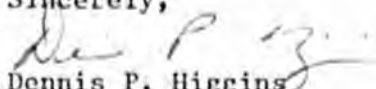
Not one of Alaska's other game refuges is subject to blanket mineral closure. That the state legislature would adopt an unprecedented position on the Minto Flats Game Refuge, a position that is permanently inimicable to fostering economic progress in the interior, is irresponsible and unconscionable.

Another topic that the bill pointedly does not address is access for future development. Extensions of the Alaska Railroad, a utility corridor for a future oil or gas pipeline, guaranteed access along established rights-of-way (Commissioner's Line Trail, Fairbanks-Manley Hot Springs Trail) all need to be included in any final writing of this bill.

I am just beginning my involvement in the mining industry in Alaska, and it is my sincerest wish that no more opportunities for natural resource exploration and development are foresaken because of lack of foresight. Alaska is my home, and I'd hate to have to leave it for someplace with a more encouraging regulatory and resource development climate.

cc: Steve Frank
Mark Boyer
Roger Burrgraf
Sherry Schlofeldt
Mike Davis

Sincerely,


Dennis P. Higgins

P.O. Box 83151
Fbk. Ak 99708

PUBLIC OPINION MESSAGE

DEAR: SENATOR COGHILL

NAME: SCOTT GRUNDY
 TITLE:
 ADDRESS: 821 LANCASTER DRIVE
 CITY: FAIRBANKS
 PHONE: 457-3526
 BILL NO: SB 55
 SUBJECT: MINTO FLATS
 MESSAGE: I HELPED FACILITATE PROPOSAL. RE: HEARING ISSUES: NATIVE LANDS ALSO
 STATE SELECTED. MINTO AGREED SHOULD STATE RECEIVE. NO AGRICULTURAL/STATE
 FOREST LANDS. SUPPORT GRUJP EXPANDED BOUNDARIES TO INCLUDE HIGH VALUE WILD-
 LIFE/RECRATIONAL LANDS. MANAGEMENT PLAN WILL FOCUS ON TRAILS. MOST LIKELY
 RS2477. NO REAL NEED TO ADDRESS. CALL ANY TIME FOR CLARIFICATION. AN
 ZIP: 99712

POPID: 07122251
 DATE: 02/13/87
 TIME: 12:22:51
 LIONAME: FAIRBANKS LIO

COPIES: SENATORS

HALFORD
 KELLY
 STURGULEWSKI
 SZYMANSKI
 ZHAROFF
 BINKLEY

Bruce

PUBLIC OPINION MESSAGE

DEAR: SENATOR COGHILL

NAME: MARY BOYLE
 TITLE:
 ADDRESS: 12700 SCHOONER DRIVE
 CITY: ANCHORAGE, ALASKA
 PHONE: 276-3550
 BILL NO:
 SUBJECT: CONSUMER PROTECTION/BUDGET
 MESSAGE: THE CITIZENS OF ALASKA NEED CONSUMER PROTECTION TO PROTECT
 THEM FROM BUSINESSES WHOS INTENTION IS TAKING ADVANTAGE OF
 UNWEARY CONSUMER. IF CONSUMER PROTECTION WASN'T AROUND, CRUCIAL
 BUSINESS PEOPLE WOULD TAKE FULL ADVANTAGE OF THAT AND BE LIKE
 LOOTERS AFTER AN EARTHQUAKE. CONSUMERS ARE WHAT KEEP THE
 ECONOMY MOVING.
 ZIP: 99515

POPID: 03122237
 DATE: 02/13/87
 TIME: 12:22:37
 LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES REPRESENTATIVES SENATORS

ADAMS	BARNES	ABOOD
BOUCHER	BOYER	BENNETT
BROWN	CATO	BINKLEY
COLLINS	COTTEN	DUNCAN
DAVIDSON	DAVIS	ELIASON
DONLEY	ELLIS	FAHRENKAMP
FRANK	FURNACE	FAIKS
GOLL	GRUENBERG	FISCHER
GRUSSENDORF	HANLEY	HALFORD
HERMANN	HOFFMAN	HENSLEY
HUDSON	KOPONEN	JONES
LARSON	MARTIN	JOSEPHSON
MEHARD	MILLER	KELLY
NAVARRE	PEARCE	KERTTULA
PETTYJOHN	PHILLIPS	RODEY
POURCHOT	RIEGER	STURGULEWSKI
SIULTZ	SPRINGER	SZYMANSKI
SUND	SHACKHAMMER	UEHLING
TAYLOR	ULMER	ZHAROFF
WALLIS	ZAWACKI	

PUBLIC OPINION MESSAGE

DEAR: SENATOR COGHILL

NAME: MARK ALBERT BELTZ

TITLE:

ADDRESS: 343 WEST 12TH

CITY: ANCHORAGE

ZIP: 99501

PHONE: 272-5363

BILL NO:

SUBJECT:

MESSAGE: I WOULD LIKE YOU TO CUT OUT THE FUNDING FOR ABORTION WITHIN THE STATE OF ALASKA. I FEEL THAT ABORTION IS MURDER, AND IT IS THE KILLING OF INNOCENT BABIES. I THINK THAT THIS IS A WASTE OF MONEY TO FUND ABORTIONS. AN ALTERNATIVE TO THIS WOULD BE TO SPEND FUNDS ON CAPITAL PUNISHMENT TO DO AWAY WITH THE CRIMINALS WHO COMMIT VIOLENT CRIMES.

POMID: 03123022

DATE: 02/11/87

TIME: 12:30:22

LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES REPRESENTATIVES SENATORS

ADAMS	BARNES	ABOOD
BOUCHER	BOYER	BENNETT
BROWN	CATO	BINKLEY
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DAVIDSON	DAVIS	ELIASON
DONLEY	ELLIS	FAHRENKAMP
FRANK	FURNACE	FAIKS
GOLL	GRUENBERG	FISCHER
GRUSSENDORF	HANLEY	HALFORD
HERRMANN	HOFFMAN	HENSLEY
HUDSON	KOPONEN	JONES
LARSON	MARTIN	JOSEPHSON
MENARD	MILLER	KELLY
NAVARRE	PEARCE	KERTTULA
PETTYJOHN	PHILLIPS	RODEY
POURCHOT	RIEGER	STURGULEWSKI
SHULTZ	SPRINGER	SZYMAWSKI
SUND	SHACKHAMMER	UEHLING
TAYLOR	ULMER	ZHAROFF
WALLIS	ZAWACKI	

PUBLIC OPINION MESSAGE

DEAR: SENATOR COGHILL

NAME: DOUG FRUGE

TITLE:

ADDRESS: 936 EASTWOOD LANE

CITY: FAIRBANKS

ZIP: 99712

PHONE: 456-0418

BILL NO: SB 55

SUBJECT: MINTO FLATS STATE GAME REFUGE

MESSAGE: I WOULD LIKE TO SUPPORT THIS BILL AS IT IS CURRENTLY WRITTEN.

EOM/MW

POMID: 07090842

DATE: 02/11/87

TIME: 09:08:42

LIONAME: FAIRBANKS LIO

COPIES: REPRESENTATIVES SENATORS

BOYER	HALFORD
DAVIS	KELLY
KOPONEN	STURGULEWSKI
FRANK	SZYMAWSKI
MILLER	ZHAROFF
	FAHRENKAMP
	BENNETT

Bruce

9301.0.13

ALASKA LAND ACREAGE SUMMARY
December 31, 1985

	Millions of Acres	% of Total
<u>Total Land Alaska</u> -----	367.7	100.0%
<u>State Land Entitlement</u> ¹ -----	104.8*	28.5%
Selected Land ² (includes over-selection) ---	27.8	
Tentatively Approved -----	54.1	
Patented -----	27.7	
<u>Private Land Owned by Individuals</u> ³ -----	5.0*	1.4%
<u>Native Corporation Land Entitlement</u> ⁴ -----	43.7*	11.9%
Selected Land (includes over-selection) ⁵ ---	45.6	
Interim Conveyed or Patented ⁶ -----	34.6	
<u>Total Federal Land</u> -----	217.7*	59.2%
<u>National Park System</u> ⁷ -----	51.0**	(13.9%)
(Parks Acreage Also Within the National Wilderness Preservation System: 30.4)		
Parks/Monuments Established Prior to 1980- 7.5		
Parks/Monuments Established in Alaska Lands Act ¹¹ -----	24.6	
Preserves Established in Alaska Lands Act ¹¹ -----	18.9	
<u>U.S. Fish and Wildlife System</u> ⁸ -----	76.0**	(20.6%)
(Refuge Acreage also within the National Wilderness Preservation System: 18.6)		
Refuges Established Prior to Alaska Lands Act -----	22.3	
Refuges Established in Alaska Lands Act ¹¹ -	53.7	
<u>U.S. Forest System</u> ⁹ -----	23.2**	(6.3%)
(Forest Acreage also within the National Wilderness Preservation System: 5.4)		
Forests Established Prior to Alaska Lands Act -----	19.8	
Forests Established in Alaska Lands Act ¹¹ -	3.4	
<u>Bureau of Land Management</u> -----	65.0**	(17.7%)
National Petroleum Reserve-Alaska -----	22.4	
Areas Established in Alaska Lands Act ¹¹ Conservation and Recreation Areas -----	2.2	
Nat'l Wild & Scenic Rivers System -----	1.5	
Other Alaska Lands -----	38.9	
<u>Military Lands</u> ¹⁰ -----	2.5**	(0.7%)

Note: Because of unresolved overlaps between state and Native selections and various federal designations and because state entitlement lands may be disposed of to private owners, the sum of subtotals exceeds the statewide total.

*Figures add to statewide total.

**Figures add to federal total.

RECEIVED

MAR 17 1987

(1)

- SOURCES:
1. Alaska Statehood Act P.L. 85-508 (January 3, 1959)

General Grant Sec. 6(b)-----	102,550,000
Community Grant Sec. 6(a)-----	400,000
Community-National Forest Sec. 6(a)	400,000
Territorial Grants-----	1,200,000+
School Land Settlement P.L. 96-487	75,000
 2. Monthly Land Activity Report. Selected land figure includes unresolved overlaps with certain Native land selections.
 3. Represents state, federal, and municipal land disposals including an estimated 700,000 acres to be conveyed to individual Alaskan Natives under the Native Allotment Act of 1906.
 4. Alaska Native Claims Settlement Act P.L. 92-203 (December 18, 1970).
 5. Resource Assessment System, Department of Natural Resources.
 6. Bureau of Land Management, Division of ANCSA Operations.
 7. National Park Service, Department of Interior.
 8. U.S. Fish and Wildlife Service, Department of Interior.
 9. U.S. Department of Agriculture, Forest Service: Chugach Forest, 4.6 million; Tongass Forest, 15.2 million.
 10. Public Lands Statistics, Bureau of Land Management, 1977.
 11. Alaska National Interest Lands Conservation Act P.L. 96-487 (December 2, 1980.)

Prepared By

Alaska Department of Natural Resources
Division of Land and Water Management

②