

HB

590

HOUSE COMMITTEE REPORT

File

(11)

Date Referred: April 11, 1990

FURTHER REFERRALS:

Date of Committee Action: 4/28/90

The FINANCE Committee considered:

HB 590

HOUSE BILL NO. 590

APPROP: INHOLDINGS, TIMBER RTS/KACHEMAK BAY

"An Act making a special appropriation to the Department of Natural Resources for the purchase of the inholdings of the Seldovia Native Association, and the timber rights of the Timber Trading Company, within the Kachemak Bay State Park; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CS HB 590 (Res) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____
- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass No Rec Amend

<i>[Signature]</i> Swackhammer BROWN	<i>[Signature]</i> Carson		
<i>[Signature]</i> (support subject to budget adjustment to stay within spending limit) TUMER	<i>[Signature]</i> KOPONEV	X	
<i>[Signature]</i> BARNES	<i>[Signature]</i> PHILLIPS	✓	
	<i>[Signature]</i> RIEGER	✓	
	<i>[Signature]</i> WALLIS	✓	
	<i>[Signature]</i> HOFFMAN	X	

[Signature] Hoffman
Chairman's Signature
[Signature] Carson

Funding Information: General Fund \$20,000,000
Other Funds -0-
\$20,000,000

Original sponsor(s): Rules/Governor

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 590 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Depart-
7 ment of Natural Resources for the purchase of the
8 inholdings of the Seldovia Native Association, and
9 the timber rights of the Timber Trading Company,
10 within the Kachemak Bay State Park; and providing for
11 an effective date."

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

13 * Section 1. LEGISLATIVE FINDINGS. (a) The legislature finds that the
14 Kachemak Bay State Park is an important scenic and recreational area and
15 that the inholdings within the park, if developed, would seriously compro-
16 mise the integrity of the existing park land. The legislature finds,
17 therefore, that it is in the interest of the state to acquire the inhold-
18 ings of the Seldovia Native Association, and the timber rights of the
19 Timber Trading Company, within the Kachemak Bay State Park.

20 (b) The legislature further finds that the value, to the state, of
21 the Seldovia Native Association's inholdings, and the timber rights of the
22 Timber Trading Company, within Kachemak Bay State Park is \$20,000,000.

23 * Sec. 2. The sum of \$20,000,000 is appropriated from the general fund
24 to the Department of Natural Resources for the purchase of the inholdings
25 of the Seldovia Native Association, and the timber rights of the Timber
26 Trading Company, within the Kachemak Bay State Park as identified in the
27 Preliminary Exchange Agreement dated June 30, 1989, as amended as of the
28 effective date of this Act, between the state, the Seldovia Native Asso-
29 ciation, and the Timber Trading Company.

**Purchase of Inholdings
within
Kachemak Bay State
Park**

**HB 590
SB 536**



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

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

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that enables the state to acquire 37 square miles of inholdings within Kachemak Bay State Park. The bill appropriates \$17,820,000 to the Department of Natural Resources (DNR) to purchase all of Seldovia Native Association's land and Timber Trading Company's timber on this land in the park.

For 15 years the state has been working on various land exchange proposals to acquire Seldovia Native Association's (SNA) 24,000 acres of inholdings that are within Kachemak Bay State Park. The land was state-owned when the park was established in 1970, but then it was subsequently acquired by SNA under the Alaska Native Claims Settlement Act of 1971. In 1987, the timber on a portion of SNA's land was sold to Timber Trading Company (TTC), a subsidiary of Koncor Forest Products.

This 24,000-acre parcel lies south and east of China Poot Bay, extending south to Sadie Cove. This land is in the center of Kachemak Bay State Park. China Poot Bay has high fish and wildlife habitat values. The land owned by SNA has high recreation and scenic values and lies directly across Kachemak Bay from Homer.

Commercial recreation development and timber harvest have been proposed on this land. Acquisition of SNA's land is crucial to protect the public recreation, wildlife, and scenic values of the park. Since October 1988, DNR, SNA and TTC have been actively involved in developing a land exchange. DNR was working towards separate exchanges with SNA for the land and TTC for the timber rights. Consistent with Alaska Statutes 38.50, we had intended to submit a final exchange agreement to the Legislature for approval this session. Efforts to develop a final exchange agreement were slowed because of significant disagreements over the appraised value of the land.

An appraiser hired by SNA arrived at two different values of SNA's land in the park -- \$22.7 million and \$25.6 million. We disagreed with both appraisals because the appraiser used only parkland as comparable properties to set the value of SNA land. The appraiser made few adjustments to comparables to address differences in size, location, and date of sale. DNR contracted for an independent appraisal that valued the land at \$12 million, which SNA disagreed with.

In February, DNR established an appraisal review panel to render their opinion of the value of SNA's land. The panel concluded the value of SNA's land, with the timber still in place, is \$17,820,000. Assuming that the timber was cut on a portion of the land, the panel arrived at values for SNA's land that ranged from \$11.62 to \$15.49 million.

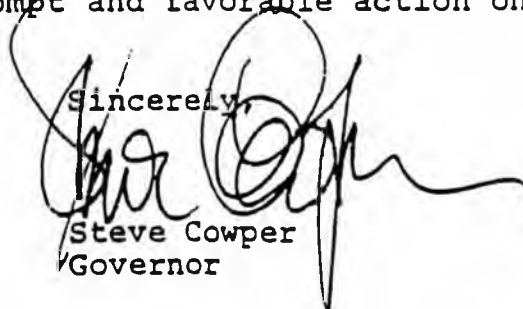
On February 28, after an exchange of offers, DNR offered SNA \$15.49 million, the highest value the panel arrived at assuming the timber was harvested on a portion of the land. SNA rejected this value unless the state was willing to pay the full value in cash. SNA would agree to a land exchange only if the state agreed to pay a higher value for SNA's land. DNR refused to consider an exchange that valued SNA's land higher than \$15.49 million because appraisals have not substantiated a higher value.

We agree that \$17.82 million is an acceptable value for SNA's land. This is at the high end of the appraised values, but this is a difficult parcel to appraise. This value should be the same whether SNA's land is acquired by exchange or through a cash purchase.

I support a cash purchase recognizing that past land trade efforts failed, in part, due to differing opinions of the value of SNA's land. SNA will not negotiate an exchange that is based on fair market value, but is willing to sell its land for cash at fair market value.

I request that the legislature appropriate the funds to purchase SNA's land and TTC's timber. The amount of time, effort, and money spent by the state, SNA, and the people of Alaska over fifteen years demonstrates that there is public support for making Kachemak Bay State Park whole. The length of time further demonstrates how difficult it has been to reach an agreement such as the one represented by this bill. I urge your prompt and favorable action on this measure.

Sincerely,



Steve Cowper
Governor

Funding Information: General Fund \$17,820,000
Other Funds -0-
\$17,820,000

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 590

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Depart-
7 ment of Natural Resources for the purchase of the
8 inholdings of the Seldovia Native Association, and
9 the timber rights of the Timber Trading Company,
10 within the Kachemak Bay State Park; and providing for
11 an effective date."

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

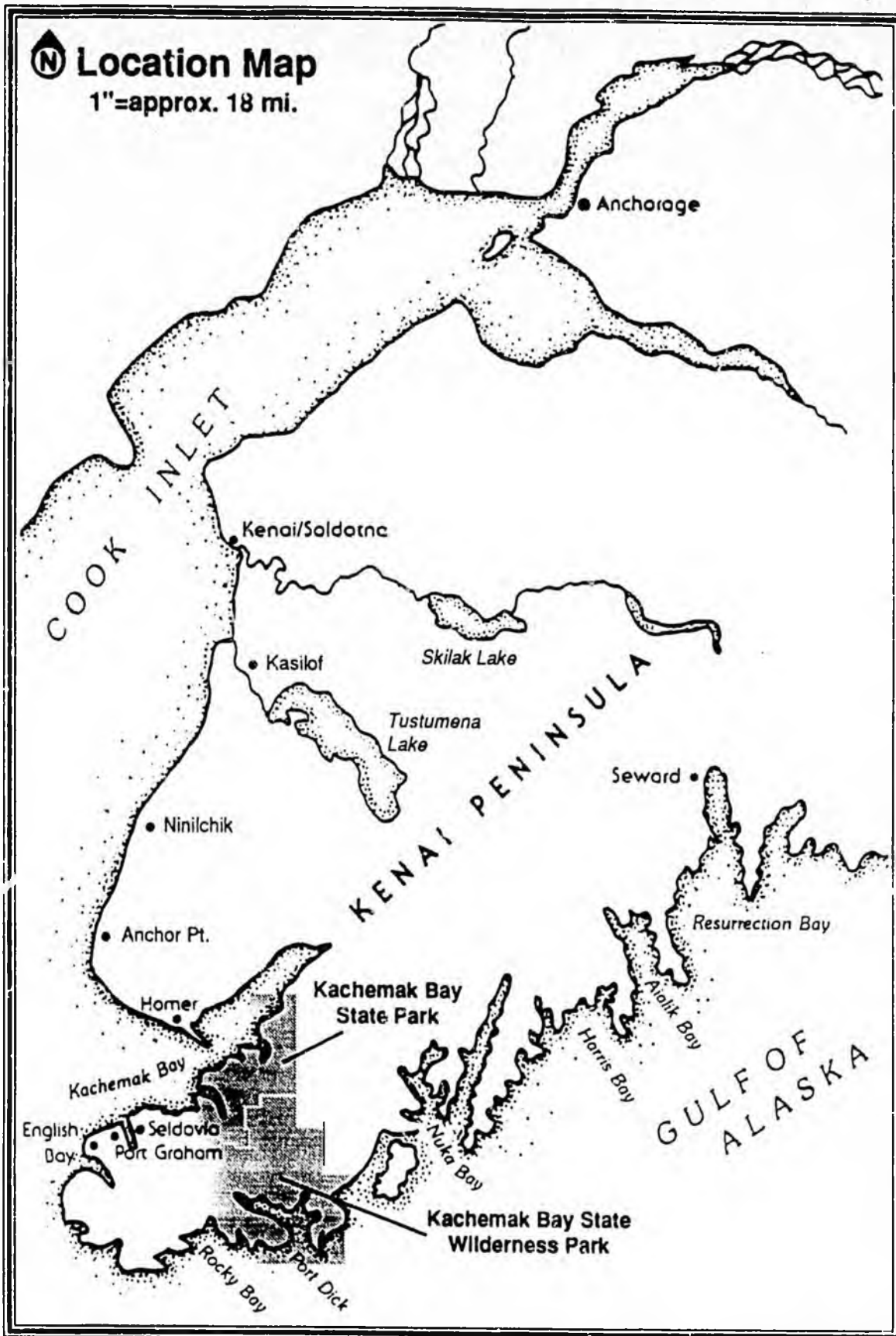
13 * Section 1. LEGISLATIVE FINDINGS. (a) The legislature finds that the
14 Kachemak Bay State Park is an important scenic and recreational area and
15 that the inholdings within the park, if developed, would seriously compro-
16 mise the integrity of the existing park land. The legislature finds,
17 therefore, that it is in the interest of the state to acquire the inhold-
18 ings of the Seldovia Native Association, and the timber rights of the
19 Timber Trading Company, within the Kachemak Bay State Park.

20 (b) The legislature further finds that the value, to the state, of
21 the Seldovia Native Association's inholdings, and the timber rights of the
22 Timber Trading Company, within Kachemak Bay State Park is \$17,820,000.

23 * Sec. 2. The sum of \$17,820,000 is appropriated from the general fund
24 to the Department of Natural Resources for the purchase of the inholdings
25 of the Seldovia Native Association, and the timber rights of the Timber
26 Trading Company, within the Kachemak Bay State Park as identified in the
27 Preliminary Exchange Agreement dated June 30, 1989, as amended as of the
28 effective date of this Act, between the state, the Seldovia Native
29 Association, and the Timber Trading Company.

N Location Map

1"=approx. 18 mi.



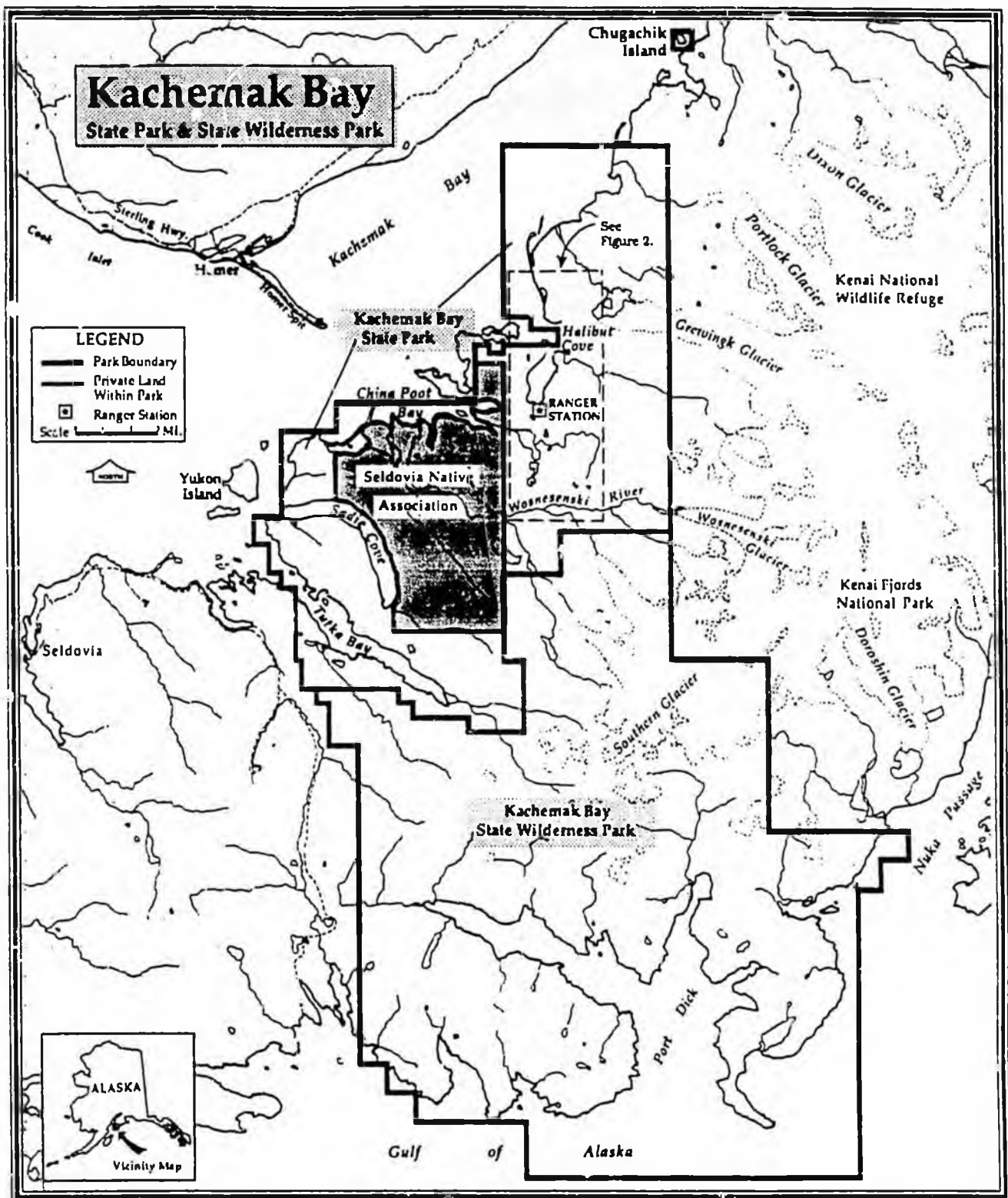


Figure 1.

History:

Kachemak Bay State Park was created by the Alaska Legislature in 1970. The following year, the U.S. Congress passed the Alaska Native Claims Settlement Act (ANCSA), which entitled Alaska Natives to receive land as settlement of aboriginal land claims (including federal lands that had already been transferred to the state).

SNA selected and received title to over 29,000 acres of its ANCSA settlement from lands within Kachemak Bay State Park. The SNA selections included key coastline and other high public use areas, including lands near China Foot Bay, one of the most beautiful and accessible sites within the park.

In 1979, a Memorandum of Understanding between SNA and the state Department of Natural Resources (DNR) was executed. Among other things, the memorandum committed the state and SNA to exchange SNA's park inholdings for state land of equal value.

In 1983 and again in 1985, the state and SNA successfully completed two small land exchanges. Two larger exchange attempts were unsuccessful, and further negotiations waned. At this writing, SNA still owns 23,642 acres within the park.

Recent Developments:

Roughly two years ago, it was disclosed that SNA had sold timber cutting rights on 15,400 acres of its park inholdings as well as other nearby SNA land to Koncor Forest Products Company, through its subsidiary Timber Trading Company (TTC).

With a twelve year timber harvest contract (from May 30, 1987 until April 30, 1999), TTC planned to begin logging operations in the near future. These plans dismayed a number of people who appreciate the recreational and scenic values of Kachemak Bay State Park, and who want to see the integrity of the park preserved.

Almost immediately, a statewide grass roots effort to revive the trade started, and a new round of negotiations began. Participants included representatives from DNR, SNA, TTC, members of the Kachemak Bay Citizen's Coalition, and local representatives.

The first step in the revived exchange process was to assemble a pool of state land to offer SNA. Once DNR completed this, the next step was an appraisal of SNA's land within the park.

An independent appraiser, under contract to SNA, arrived at two different values for SNA's property within the park, depending on the potential for timber harvest was treated: \$22.7 million and \$25.6 million. Market value of timber was considered in addition to this, and at one point, the total value of the inholdings was estimated to be in the area of \$32 million.

DNR officials disagreed with the methods used by SNA's appraiser, maintaining that these values were not substantiated. DNR then contracted for its own independent appraisal, which placed the land values at \$12 million. SNA disagreed with this value.

In February, an arbitration panel of three independent appraisers was selected by DNR and SNA to review the appraisals and render an opinion of the value of SNA's property. Though SNA agreed to the panel, it did not agree to be bound by the panel's results.

After some deliberation, the panel concluded that the value of SNA's land, with the timber left in place, was \$17.82 million. If timber on a portion of those lands were harvested, the value

for the land alone ranged from \$11.62 to \$15.49 million, depending on what assumptions were made regarding the impact of any potential timber harvest. SNA still felt these values were too low, but agreed to negotiate.

After an exchange of offers and counter-offers, an agreement was reached on February 28, 1990. Under the terms of this accord, the state declared its willingness to purchase the balance of SNA's lands within Kachemak Bay State Park for \$15.49 million. Though the figure is at the high end of the arbitration panel's valuation, DNR concedes that it is a very difficult parcel to appraise. SNA has assented to this price only if the state makes an outright purchase of the property, not an exchange of land.

Timber:

TCC's timber within the park has been recently appraised as having a market value of \$6.4 million, and the DNR has been working on state acquisition of TTC's timber within the park through an equal value timber exchange. State timber available for an exchange is limited. After considerable effort, TTC and the state agreed on two suitable parcels for an exchange: one near Thorne Bay on Prince of Wales Island, and the other at Frederick Point on Mitkof Island, near Petersburg.

The Thorne Bay timber is primarily red cedar (44%) and western hemlock (41%), with some Sitka spruce (11%). At this time, market prices for red cedar are dropping, and it is expected this trend will continue. This price drop has affected negotiations between the state and TTC. Additionally, there is some objection by Thorne Bay residents to harvest in this area, though such objection may be lessened if harvest would result in construction of a road to Tolstoi Bay.

The Mitkof Island parcel is composed mainly of western hemlock (61%) and Sitka spruce (36%). The timber values are high, and the market for hemlock & spruce appears to be relatively stable. However, substantial portions of Mitkof Island have already been harvested, and there is strong objection by Petersburg residents to any further harvest.

In light of the political reality that without approval from area residents, any exchange of timber (and subsequent harvest by TTC) of the Thorne Bay and Mitkof Island areas will be very difficult to accomplish, another option has been chosen: the cash purchase of TTC's timber within Kachemak Bay State Park.

Legislation:

House Bill 590 (and a Senate companion bill, Senate Bill 536) was introduced by the Governor on March 28, 1990. The measure provides an appropriation of \$17.82 million for the outright purchase of both land and timber inholdings within Kachemak Bay State Park.

What the State will Gain:

Seldovia Native Association's 23,642 acres are in the center of Kachemak Bay State Park, lying south and east of China Poot Bay, and extending southward to Sadie Cove. This comprises the "heart" of the park, and is noted as one of the most beautiful scenic areas in the state. Because of its high recreational values as well, state acquisition of these inholdings will protect and preserve the integrity of the park for generations to come.

Scenic and Recreational Values

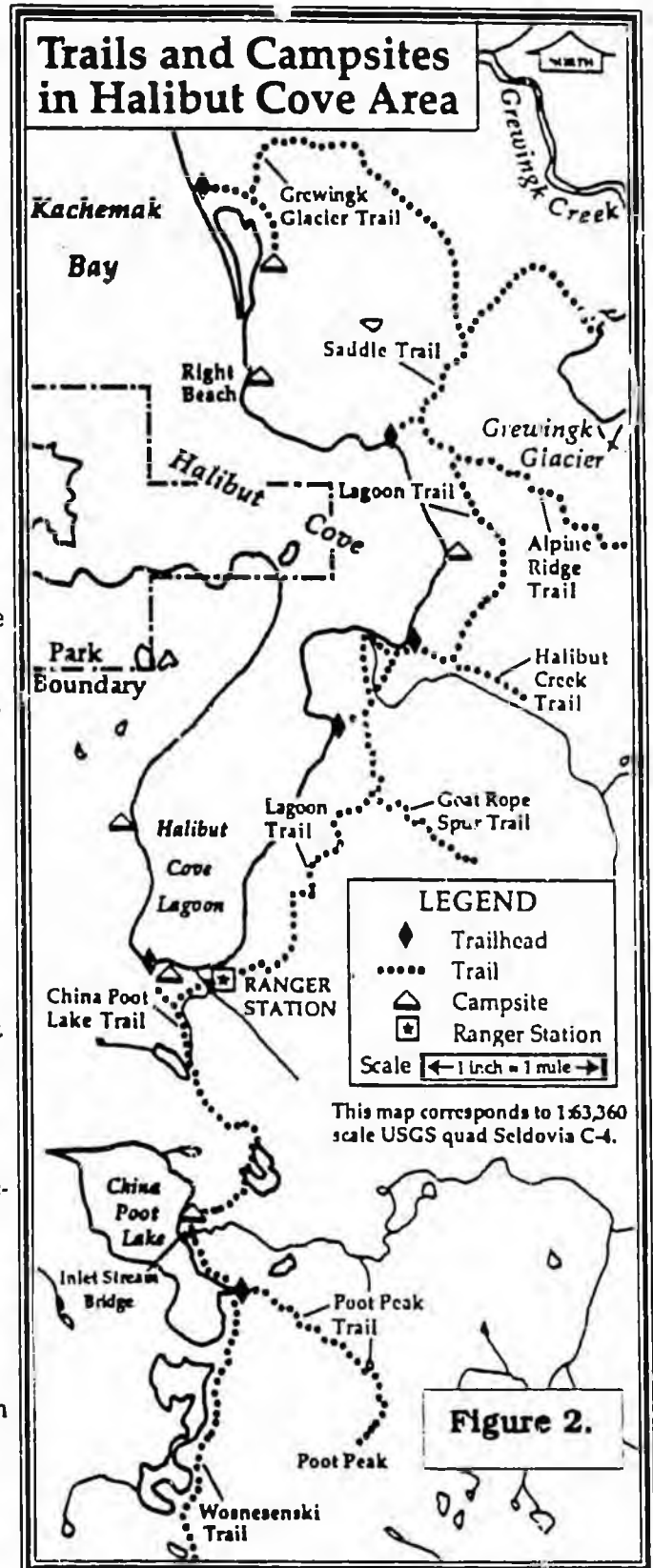
A large portion of SNA's park inholdings are highly visible from Homer and the Homer Spit, with China Poot Bay being the centerpiece for this breathtaking tableau. A photograph of China Poot, taken from the Homer side, was used by the Nation Geographic Society in its 1990 calendar, "Seashores of the World." The proposed timber harvest would include most of these scenic uplands.

Scenic flights and fly-in fishing trips are conducted by at least two Homer based flight services, and there are numerous charter boat operators offering scenic and fishing tours of the area. A major commercial lodge is located at China Poot Bay, directly across from SNA's land, and the Center for Alaska Coastal Studies is located on the Island Peninsula between Peterson bay and China Poot Bay. There are smaller lodges, private residences and cabins located along Peterson Bay, Neptune Bay, Sadie Cove and Halibut Cove. Most park users feel strongly that any logging of this pristine area would threaten the primary uses of the park, which are based on fishing and tourism. The common focus of the Homer and Kachemak Bay communities is to enhance and encourage greater recreational opportunities, while retaining the wilderness values of the park.

Most recreational use of Kachemak Bay State Park is concentrated on or adjacent to water - pleasure boating, sport fishing, clam digging, kayaking, crabbing, shrimping, beachcombing, photography, scuba diving and wildlife observation. Visitor use figures for Kachemak Bay State Park are hard to determine, and are incomplete, but annual visitor use day counts taken during periods from 1982 to 1989 range from 21,444 (seven-month period in 1982) to 27,134 (four-month period in 1987). A visit to the bay on any summer day makes it obvious that the park is one of the most heavily used recreational areas in southcentral Alaska.

Since many beach areas provide firewood, tent sites, and occasional drinking water, they are important focal points for recreational activities, including picnicking, camping and hiking. Many of the existing trailheads in the park (see Fig. 2) are located on beaches, and thus are entry points for other upland activities - hunting, backpacking, mountaineering and skiing. As the trail system improves, backpacking is becoming more popular, and improved access has spurred an increase in mountaineering and skiing on the park's many snowfields and glaciers.

Natural fish runs, combined with Dept. of Fish & Game enhancement programs, provide fishing opportunities that attract large numbers of both sport and commercial fishermen to Kachemak Bay waters.



Gerald E. Grilly
Publisher



Howard Weaver
Editor

Michael Carey, Editorial Page Editor
Patrick Dougherty, Managing Editor

Katherine Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1987 to 1971

Founded in 1946 by Norman C. Brown

Anchorage Daily News - Sat - March 31, 1990

Time to deal

State should buy Kachemak park inholdings

To appreciate how Homer-area residents feel about Kachemak Bay State Park, consider an analogy to Anchorage's Bicentennial Park. Several proposed developments in the city's midtown wilderness park have stirred angry opposition. But imagine the outcry if a private company owned Bicentennial Park's timber and wanted to turn loose the chainsaws.

That gives some sense of how people near Homer feel about the possibility that the jewel of a park across the bay will be logged. And that prospect is no idle threat. Seldovia Native Association owns some 25,000 acres in the park. The firm has already sold timber rights on one-sixth of the lands.

The state would like to protect the park. To do so, it's been trying to work a land exchange with the Seldovia firm for some 13 years without success.

But now comes hope a deal can be done. The state has dropped the idea of a land trade in favor of paying cash. A new state estimate of what Seldovia's land is worth has brought the two sides closer together than ever.

There's just one large hurdle left: The legislature must agree to fund the park purchase. Lawmakers should seize the moment.

Gov. Cowper is asking for \$17.8 million. That's not as much as the Seldovia firm and its timber partner want, but it's more than the land is worth as timber property. The three parties can fine-tune the price as the legislature reviews the funding proposal.

Failing to strike a deal will have bitter consequences. Any logging will disrupt China Poot Bay, one of the area's most popular and sensitive estuaries. A ugly scar will sit for all to see on the Homer side of the bay. As state parks director Neil Johannsen points out, the inevitable backlash could jeopardize public support for more appropriate logging projects.

But the situation needn't become so poisoned. Both sides agree the land's highest and best use is a park. The state is willing to pay a price that reflects that fact.

The legislature should give the parks division enough money to show the state is serious about a deal. If the two sides will then quit haggling over the price, Seldovia Native Association will have a solid deal for its shareholders and Kachemak Bay State Park will get the protection it deserves.

 FAX TRANSMITTAL
 TO: Mike Neumann / Pat Malone
 DEPT: Home FAX #: 4654565
 FROM: Mylius PHONE: 7622660
 CO: DNR FAX #: _____

 END OF PAGES
 2