

S B

454

HOUSE COMMITTEE REPORT

(9)

Date Referred: March 28, 1990

FURTHER REFERRALS:

Date of Committee Action: 5/6/90

The RESOURCES Committee considered:

CSSB 454 (RESOURCES)

CS SB NO. 454 (Resources)

MANAGEMENT & USE OF STATE LAND

"An Act relating to the use of state land."

RECOMMENDATIONS:

- be replaced with _____ 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)


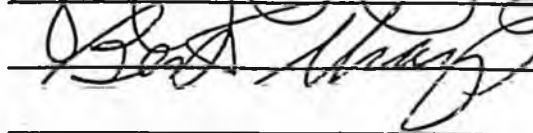
APPROVES PREVIOUS:
(Date/Dept)

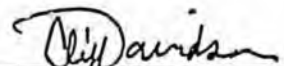
- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis 3/5/90 ADA + G

SIGNING DO PASS:

SIGNING:
(Check approp. column)

		Do Not Pass	No Rec	Amend
 ROSTER	DAVIDSON	✓		
 SHARP	JACKO	X		
	NAVARRE	X		
	FURNACE	X	WF	
	HUDSON		✓	
	MENARD		X	


Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to multiple use of state land and water
Sponsor: Resources Committee
Requestor: Resources Committee

Agency Affected: Dept. of Fish and Game
BRU: Habitat
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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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)

No impact on FY 90 budget

Prepared by: Frank Rue, Director
Division: Habitat

Phone: 465-4105

Date: _____

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

Date: 3/2/90

Distribution (by preparer):

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

Changes in CS SB 454 (Res) have no fiscal impact.
This fiscal note is appropriate.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB 454	SPONSOR Resources Committee
SHORT TITLE OF BILL An Act relating to multiple use of state land and water			
DEPARTMENT POSITION Oppose			
PREPARED BY Frank Rue, Director	DATE 3-2-90	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 3/2/90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL All users of state land
ORGANIZATIONAL SUPPORT FOR BILL Unknown	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
Section 1 amends the definition of multiple use as it is defined in AS 38.04 (Alaska Lands Act) to require that multiple use lands be managed for all of their resources; thereby negating current statutory discretion to manage lands for a predominant use or for less than all competing uses.

ANALYSIS OF BILL/PROGRAM EFFECTS
The existing definition of multiple use is consistent with the state's constitutional provision that "Fish, forest, wildlife, grasslands, and all other replenishable resources belonging to the state should be utilized, developed, and maintained on a sustained yield principle, subject to preferences among beneficial uses." The existing language accommodates the commonly recognized fact that all potential natural resource uses may not be compatible on every acre. The current definition also allows for the objective and reasonable identification of appropriate primary, secondary, and incompatible uses on an area-specific basis.
Section 1 will remove the Department of Natural Resources' authority to classify or manage state lands for a predominant use or for less than all compatible competing uses. This section may also limit or condition the Department of Fish and Game's management and permitting authorities within State Game Refuges, State Game Sanctuaries, and Critical Habitat Areas established under AS 16.20. (cont'd)

AMENDMENTS PROPOSED
Section 2: We suggest that the AS 38.05.185 amendment be worded to require the reporting of areas opened, as well as closed, to mineral entry each year.
) Changes in CS SB 454 (Res) *[Signature]*
have no fiscal impact.
This fiscal note is appropriate.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Continuation of Bill Analysis SB 454

Bill/Program Effects

These areas have been legislatively protected in recognition of their outstanding natural habitat and associated fish and wildlife resource values. Absent a legislative definition for "compatible," this measure will essentially require that all state land and its various resource values be managed as open public domain on the assumption that all competing uses are compatible, unless clear and convincing evidence to the contrary is available.

Although SB 35's reduced emphasis on "the use of the land for less than all of the resources" is accompanied by the added qualification that multiple use "does not exclude compatible competing uses," the latter requires that individual determinations be made as to whether competition between uses is sufficiently great to result in incompatibility. There is concern that such compatibility tests may 1) unduly tax already strained agency staffs and budgets, 2) create delays in land use decisions that would be burdensome to private industry and the general public, and 3) reduce, rather than increase, state land management flexibility to respond to ever changing economic and social demands on the state land base.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : CSSB 454 (Res)(b)
PUBLISH DATE : 3/5/90

FISCAL NOTE

REQUEST:

Revision Date: 2-Mar-90 Agency Affected: Natural Resources
Title: An Act relating to closure of BRU: Land & Water Management
state land to multiple purpose use.
Sponsor: Resource Committee Components: Land & Water Mgmt
Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Larry Ostrovsky Phone: 465-2400
Division: Commissioner's Office Date: 2-Mar-90

Approved by Commissioner: Lennie Gorsuch Date: 2-Mar-90
Agency: Department of Natural Resources

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

Changes in CSSB 454 (Res) *WSP best*
have no fiscal impact.
This fiscal note is
appropriate.

Alaska State Legislature

Senate Resources Committee

Senator Bettye Fahrenkamp, Chairman
Senator Jay Kerttula, Vice Chairman
Senator Dick Eliason
Senator Steve Frank
Senator Rick Hallford
Senator Arliss Sturqulewski
Senator Fred Zharoff



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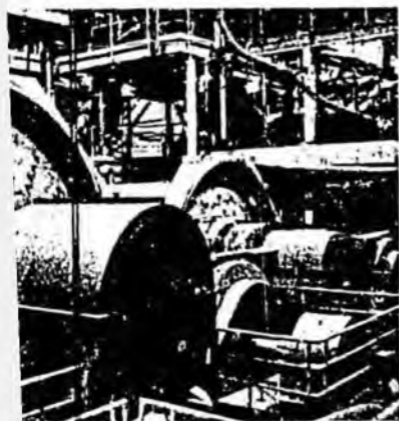
To: Senate Resources Committee members
From: Sen. Bettye Fahrenkamp *BF*
Date: March 2, 1990
Re: SB 454, use of state lands

Section 1. The purpose of this section is to define "multiple use" to ensure that all the achievable land uses are considered in the planning process on an equal basis. In other words, two uses does not constitute "multiple use" if there are other land uses that can coexist simultaneously. Multiple use means all uses of land and it does not exclude compatible competing land uses.

Section 2. The purpose of this section is to require the commissioner of the Department of Natural Resources to submit a report to the legislature and the governor detailing the state land closed to mineral location and mining during the previous calendar year. It specifies that the report must include known resource values of the area, the reason for the closure, the effective date of the closure, and the legal description of the land involved in the closure. It allows the legislature the authority to disapprove closures and by resolution to make recommendations to the commissioner on the future management of the area. It further requires the department to submit a report every ten years that lists land withdrawn from mineral location and mining, or withdrawn from multiple use.

Section 3. This section revises the language so that it is clear that the department is not required to classify all lands, but only those considered necessary and proper. It requires the department of Natural Resources to add to its annual report to the legislature under this section, a list of instances when the department has closed lands of less than 640 acres to multiple use.

n



7 1990

In addition to the mineral closures in National Parks, Refuges and Forests, development of all kinds in the remaining lowland areas is now threatened by a proposed National policy of "No net loss of wetlands." These "wetlands" in Alaska occupy about 75 percent of the lowland areas of the state, or about 170 million acres, and are often caused by the underlying permafrost. Assessment of the mineral potential of such areas is difficult and requires sophisticated surveys.

- 3 Alaska should be exempted from a strict application of the proposed nationwide policy of "no net loss of wetlands" until a suitable policy can be formulated specifically for the state, which recognizes that Alaskan wetlands are unique in kind, size and cause.

Options for overland access to mineralized areas in Alaska must be maintained, especially in light of the relatively unexplored status of much of the state. Revised Statute 2477, (RS2477), is an 1867 congressional grant of rights-of-way across unreserved federal lands for public highways. RS2477 corridors may be the only feasible access into more remote areas of the state.

- 4 The State of Alaska should expedite the ongoing program of inventorying the possible RS2477 access routes, and aggressively assert the state's rights to these corridors of commerce, especially across otherwise inaccessible areas.

The mining law of 1872 has served the nation well on federal lands, but is under attack. Proposed changes would severely inhibit mineral exploration, development and production on federal land.

- 5 The state should transmit opposition to proposed changes in the 1872 Mining Law which would be damaging to the mining industry.

Ongoing regional land plans on state lands, and local expansion of coastal zone management plans to encompass areas remote from the coastline restrict development and generally omit assessments of subsurface resources such as minerals, coal and industrial minerals in the process. Because development of natural resources is so often precluded in the planning process, the availability of state land to mineral entry is diminished.

- 6 The Governor should establish that mineral development is a priority in the best interest of the state, consistent with Section 1 of Article 8 of the State Constitution, that must be recognized in most state land management actions.

- 7 The Legislature and Governor should support Senate Bill 34, (an act relating to state land withdrawn from mineral location and mining), and Senate Bill 35, (an act relating to multiple use of state land and water), submitted in the first session of the 16th Legislature. (See Appendix D.)

Less than 5% of Alaska has been geologically mapped at a scale suitable for mineral exploration. As a comparison, many of the third-world nations have more complete geophysical data than Alaska. A continued lack of funding for such surveys perpetuates the problem of developing a data base.

- 8 Detailed geologic and geophysical mapping of the state must be continued at an increased pace to provide a data base for the state to inventory its coal, metalliferous and industrial mineral resources as a basis for informed land planning, and to advertise the state's interest in mining as a valued component of the economic base. An annual \$5 million supplemental appropriation for this purpose would be comparable to the advertising budgets of other sectors of the state's economy.

APPENDIX D

PENDING LEGISLATION REFERENCED IN REPORT

Introduced: 1/9/89
Referred: Resources and Finance

6-0295A

1 IN THE SENATE

BY CUSHILL, PEARCE
AND FRANK

2

SENATE BILL NO. 34

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to state land withdrawn from mineral location or mining."

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8

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

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* Section 1. AS 38.05.185 is amended by adding new subsections to read:

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(d) The commissioner shall submit a report to the legislature and to the governor within the first 10 days of the convening of each regular session of the legislature detailing the state land closed to mineral location and mining during the previous calendar year. The report shall include

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(1) the known resource values of the area;

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(2) the reason for the closure;

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(3) the effective date of the closure; and

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(4) the legal description of the land involved in the closure.

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(e) Each area closed under (a) of this section remains closed to mineral location and mining until the commissioner issues an order altering the status of the land or until the closure is disapproved by act of the legislature. In addition to an act of the legislature disapproving a closure by the commissioner, the legislature may by resolution make recommendations to the commissioner on future management of the area involved.

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(f) Each report prepared under (d) of this section that reports on an area of more than 5,120 acres shall include a mineral assessment report for the area.

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1 (g) Every 10 years, the commissioner shall submit a report to
2 the governor and the legislature concerning state land that is at that
3 time withdrawn from mineral location or mining, including state land
4 withdrawn from multiple use by the legislature. The commissioner may
5 make recommendations in each report regarding existing closures of
6 state land.

7 * Sec. 2. Notwithstanding the 10-year interval required under AS 38.-
8 05.185(g), as enacted by sec. 1 of this Act, the first report to the gover-
9 nor and legislature under that subsection shall be delivered to the legis-
10 lature five years after the effective date of this Act.

1 IN THE SENATE
2
3 BY COGHILL, KELLY, PEARCE
4 AND FRANK
5 SENATE BILL NO. 35
6 IN THE LEGISLATURE OF THE STATE OF ALASKA
7 SIXTEENTH LEGISLATURE - FIRST SESSION
8 A BILL
9 For an Act entitled: "An Act relating to multiple use of state land and
10 water."
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
12 * Section 1. AS 38.04.910(5) is amended to read:
13 (5) "multiple use"
14 (A) means the management of state land and its various
15 resource values so that it is used in the combination that will
16 best meet the present and future needs of the people of Alaska,
17 making the most judicious use of the land for [SOME OR] all of
18 the [THESE] resources or related services over areas large enough
19 to provide sufficient latitude for periodic adjustments in use to
20 conform to changing needs and conditions;
21 (B) [IT] includes
22 (i) [(A)] the use of the [SOME] land for less
23 than all of the resources but does not exclude compatible
24 competing uses; [,] and
25 (ii) [(B)] a combination of balanced and diverse
26 resource uses that takes into account the short-term and
27 long-term needs of present and future generations for renew-
28 able and nonrenewable resources, including, but not limited
29 to, recreation, range, timber, minerals, watershed, wildlife
and fish, and natural scenic, scientific, and historic
values;
* Sec. 2. AS 38.05.300(a) is amended to read:



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB 454	SPONSOR Resources Committee
SHORT TITLE OF BILL An Act relating to multiple use of state land and water			
DEPARTMENT POSITION Oppose			
PREPARED BY Frank Rue, Director	DATE 3-2-90	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 3/2/90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT (GROUPS) AFFECTED BY BILL All users of state land
ORGANIZATIONAL SUPPORT FOR BILL Unknown	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

Section 1 amends the definition of multiple use as it is defined in AS 38.04 (Alaska Lands Act) to require that multiple use lands be managed for all of their resources; thereby negating current statutory discretion to manage lands for a predominant use or for less than all competing uses.

ANALYSIS OF BILL/PROGRAM EFFECTS

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AMENDMENTS PROPOSED

Section 2: We suggest that the AS 38.05.185 amendment be worded to require the reporting of areas opened, as well as closed, to mineral entry each year.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS

Continuation of Bill Analysis SB 454

Bill/Program Effects

These areas have been legislatively protected in recognition of their outstanding natural habitat and associated fish and wildlife resource values. Absent a legislative definition for "compatible," this measure will essentially require that all state land and its various resource values be managed as open public domain on the assumption that all competing uses are compatible, unless clear and convincing evidence to the contrary is available.

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FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to multiple use of state land and water
Sponsor: Resources Committee
Requestor: Resources Committee

Agency Affected: Dept. of Fish and Game
BRU: Habitat
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

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)

No impact on FY 90 budget

Prepared by: Frank Rue, Director
Division: Habitat

Phone: 465-4105

Date: _____

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

Date: 3/2/90

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

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1798
PHONE: (907) 485-2400

March 2, 1990

The Honorable Bettye Fahrenkamp
Alaska State Senator
P.O. Box V
Juneau, AK 99811

Dear Senator Fahrenkamp:

^{CSB}
Subject: ~~CSB~~ 454 (Resources), an act relating to the use of state land.

Background: This bill would modify the definition of multiple use to include all compatible competing users, require an annual report on land closed to mineral location and mining, and add to the reporting requirement of AS 38.05.300(b), an annual report on land and water closed to multiple use. ✓

Position: The department supports CSSB 454 (Resources). Its definition of multiple use reflects the philosophy and practices of this department. The proposed changes would prevent an overly narrow construction of the term in the future.

Additionally, the reporting requirements will expand the scope of the annual reports prepared by the department.

Please let me know if we can be of further assistance.

Sincerely,


Lennie Gorsuch
Commissioner

cc: Bill Sponsors
Committee Members
Bob Evans, Legislative Liaison
Office of the Governor
Denby Lloyd, Special Staff Assistant
Office of the Governor
Commissioner Don Collinsworth
Department of Fish and Game

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : CSSB 454
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: 2-Mar-90 Agency Affected: Natural Resources
 Title: An Act relating to closure of BRU: Land & Water Management
state land to multiple purpose use.
 Sponsor: Resource Committee Components: Land & Water Mgmt
 Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

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TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Larry Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: 2-Mar-90
 Approved by Commissioner: Lennie Gorsuch Date: 2-Mar-90
 Agency: Department of Natural Resources

Distribution (by preparer) :

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