

S B

545

HOUSE COMMITTEE REPORT

(9)

Date Referred: April 27, 1990

FURTHER REFERRALS:

Date of Committee Action: 5/5/90

The RESOURCES Committee considered:

CSSB 545 (RESOURCES)

CS SB NO. 545 (Res)

MARMOT ISLAND SEA LION PRESERVE

"An Act relating to establishing the Marmot Island Critical Habitat Area; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with HCS for SB 545 (Resources) [] the same title
[] a new title
- [] have attached amendment(s)
- [] 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 _____

[] fiscal note(s) _____

[] zero fiscal note _____

[] zero fiscal note(s) F+G

[] zero with analysis _____

[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass
No Rec
Amend

Cliff Davids

Steve Munn

Mike Spawne

Steve Jones

	Do Not Pass	No Rec	Amend

Cliff Davids

Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Dept. of Fish and Game
 Title: An Act relating to establishing BRU: Habitat
the Marmot Island Critical Habitat Area
 Sponsor: Resources Committee Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY91	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						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

No impact on Fy 90 budget

Prepared by: Frank Rue, Director Phone: 465-4105
 Division: Habitat Date: 4/12/90
 Approved by Commissioner: [Signature] Date: 4/13/90
 Agency: Department of Fish and Game

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

WORTH CONTINUED THROUGH 1990.

Changes in 05 SB 545 (Res.)
 have no fiscal impact. This
 fiscal note is appropriate.
 Projections of no fiscal impact



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PIIILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Representative Cliff Davidson
Representative Curt Menard
Co-Chairmen
House Resources Committee

FROM: Senator Fred F. Zharoff 

DATE: April 28, 1990

RE: CS For Senate Bill 545 - "An Act relating to establishing the Marmot Island Critical Habitat Area; and providing for an effective date."

I respectfully request that CSSB 545 be scheduled for a hearing before the House Resources Committee at the earliest possible opportunity.

SB 545 establishes a critical habitat area on the east side of Marmot Island, northeast of Kodiak Island.

The east side of Marmot Island is the location of the largest sea lion rookeries in Alaska. The sea lion population in Alaska -- for unknown reasons -- has suffered a major population decline. The decline is so great that the National Marine Fisheries Service has placed sea lions on the Threatened Species List, under the Endangered Species Act.

With this listing, NMFS implemented a series of emergency protective measures. These measures fall most heavily on the fishing industry.

The creation of the Marmot Island Critical Habitat Area is a positive step the state can take to assist in the recovery of the sea lion population. The Department of Fish and Game would be the primary issuer of permits for all activities within the area. The department's priority would be to protect the sea lions from all harmful human activity.

The following backup information is attached:

1. Sectional analysis.
2. Fiscal note.
3. Map of the proposed Marmot Island Critical Habitat Area.
4. Map of the Marmot Island sea lion rookeries.

5. Map showing Marmot Island in relation to Kodiak Island and the Gulf of Alaska.
6. Map of the area around Marmot Island closed by the National Marine Fisheries Service
7. Department of Fish and Game position paper. The amendments suggested by the department in regard to the legal description were largely incorporated into the CS.
8. Department of Natural Resources position paper.
9. News release from the National Marine Fisheries Service.



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

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1

SECTIONAL ANALYSIS

CS For Senate Bill 545 (Resources)

"An Act relating to establishing the Marmot Island Critical Habitat Area; and providing for an effective date."

SECTION 1

- (a) Legal description of the boundaries of the Marmot Island Critical Habitat Area.
- (b) Statement of purpose for the critical habitat area.
- (c) Requires the commissioner of the Department of Fish and Game to report to the legislature every two years on the status of the Stellar sea lions and the Marmot Island rookeries. Closes the area to mineral entry until Steller sea lions are no longer classified as threatened, endangered, or depleted.
- (d) Requires the commissioner to allow historical, traditional, and public uses of the area provided they are compatible with the purpose of the area, which is primarily the protection of Steller sea lions.

SECTION 2

Sunset clause. The critical habitat area would return to its former land status on July 1, 2005 unless action is taken by the legislature to continue it.

SECTION 3

Immediate effective date.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Dept. of Fish and Game
 Title: An Act relating to establishing BRU: Habitat
the Marmot Island Critical Habitat Area
 Sponsor: Resources Committee Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY91	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						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

No impact on Fy 90 budget

Prepared by: Frank Rue, Director
 Division: Habitat

Phone: 465-4105
 Date: 4/12/90

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

Date: 4/13/90

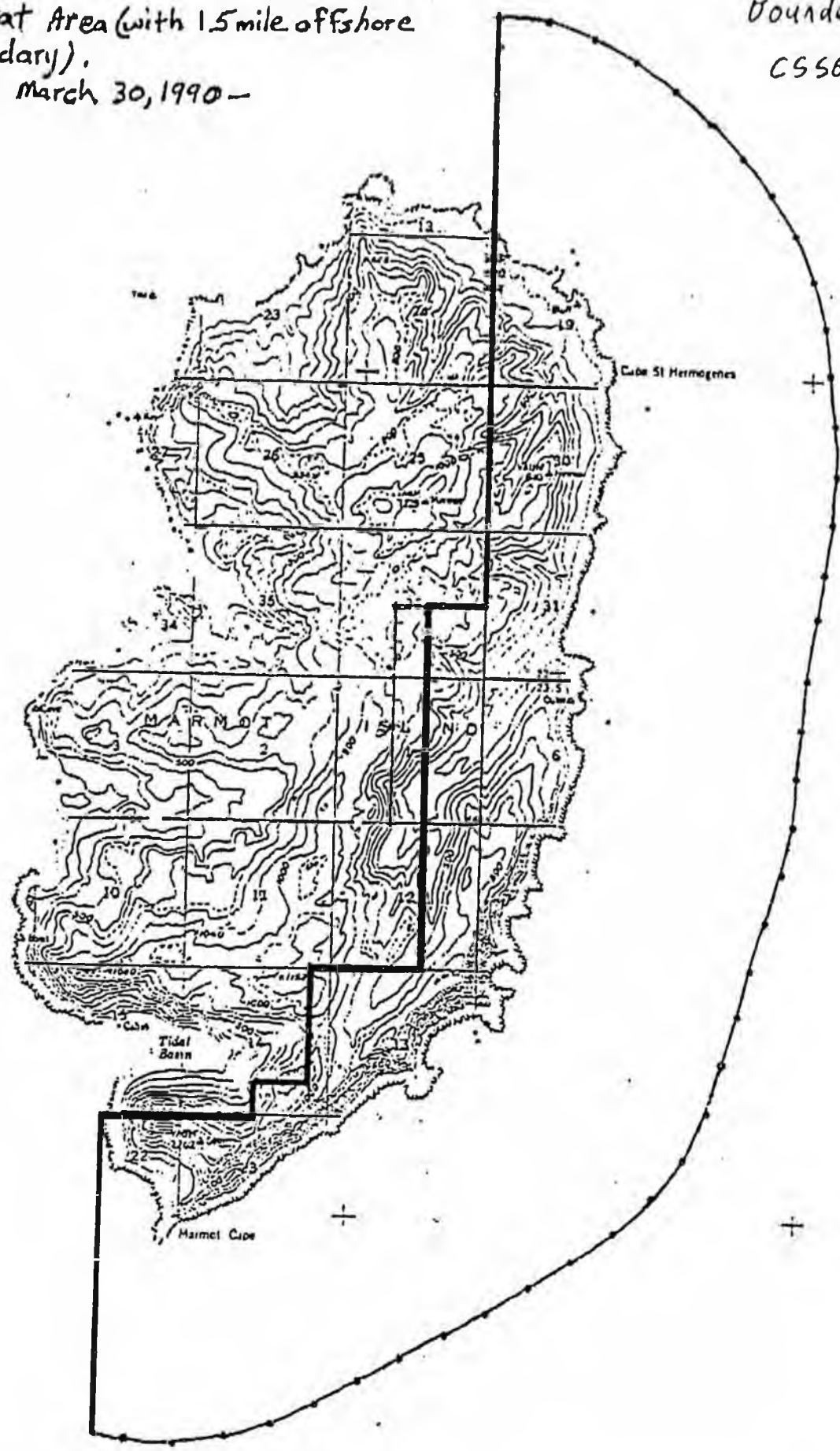
Distribution (by preparer):

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

3

Proposed Marmot Island Critical
Habitat Area (with 1.5 mile offshore
boundary).
- as of March 30, 1990 -

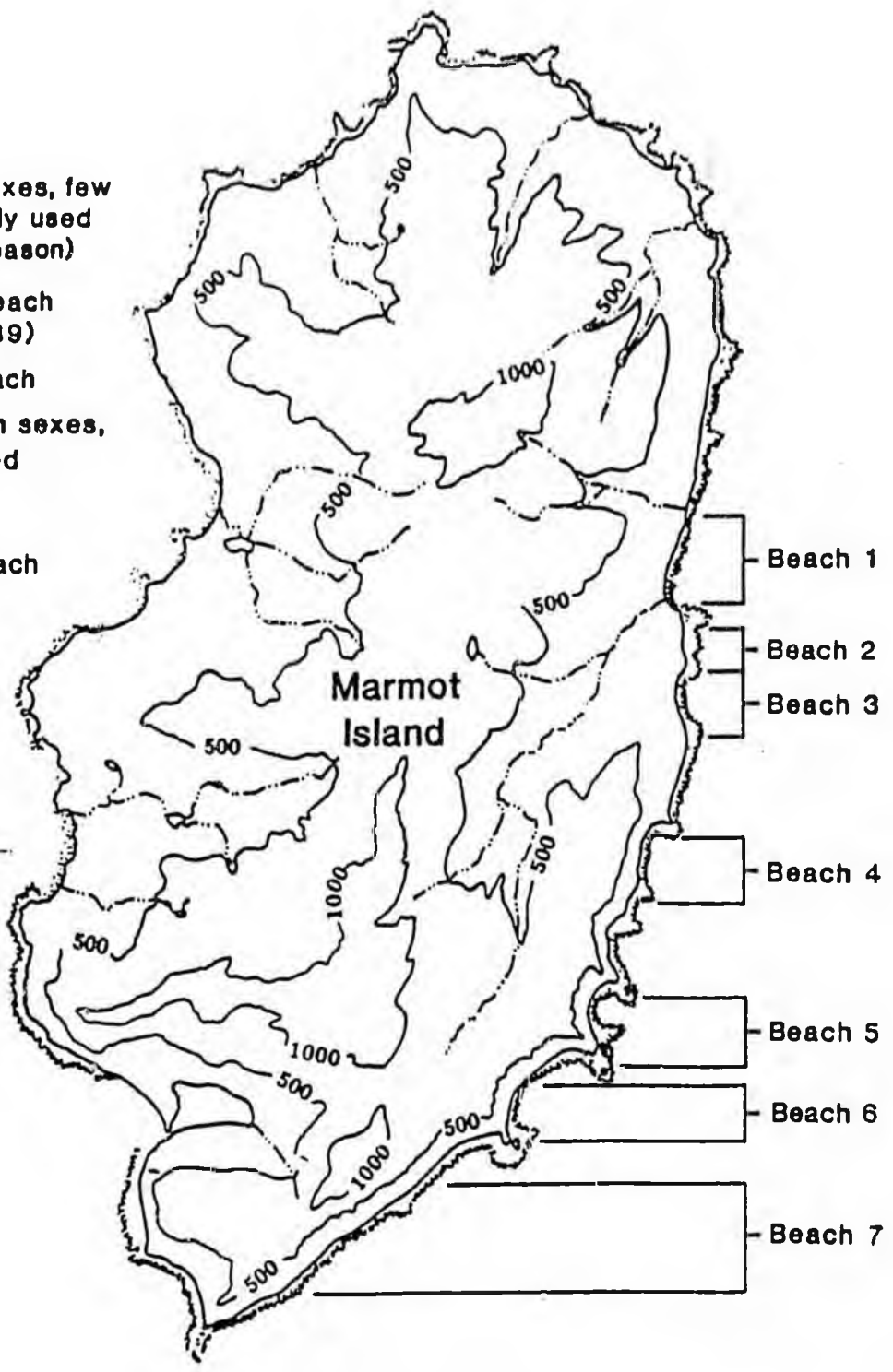
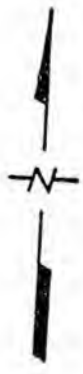
Boundary For
CSSB 545



Location of Marmot Island Northern Sea Lion Rookeries

LEGEND

- Beach 1. Males only
- Beach 2. All ages, both sexes, few pups, not currently used (1987 pupping season)
- Beach 3. Major pupping beach (Not used in 1989)
- Beach 4. Major pupping beach
- Beach 5. All ages and both sexes, not currently used
- Beach 6. Same as 5
- Beach 7. Major pupping beach



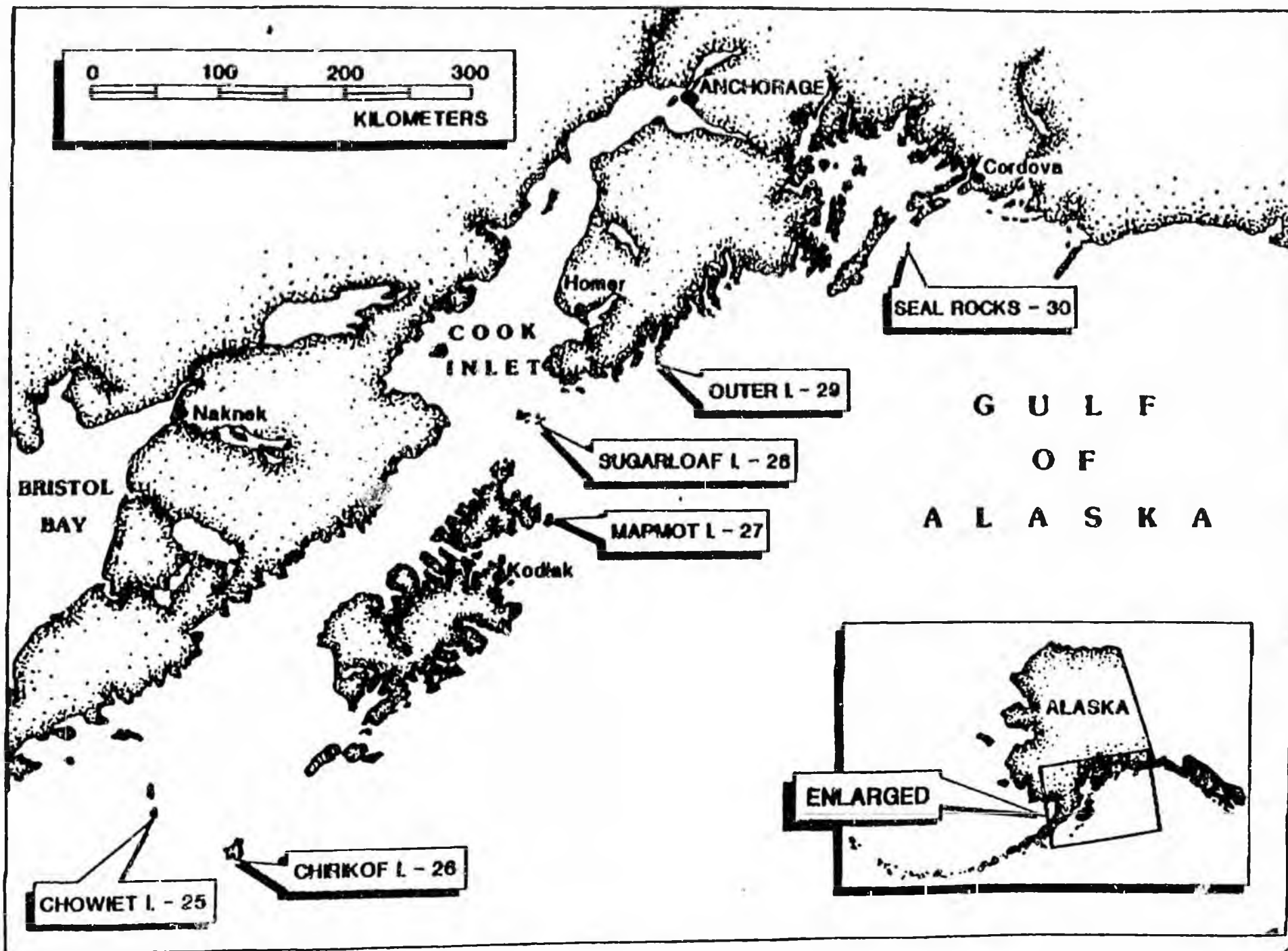
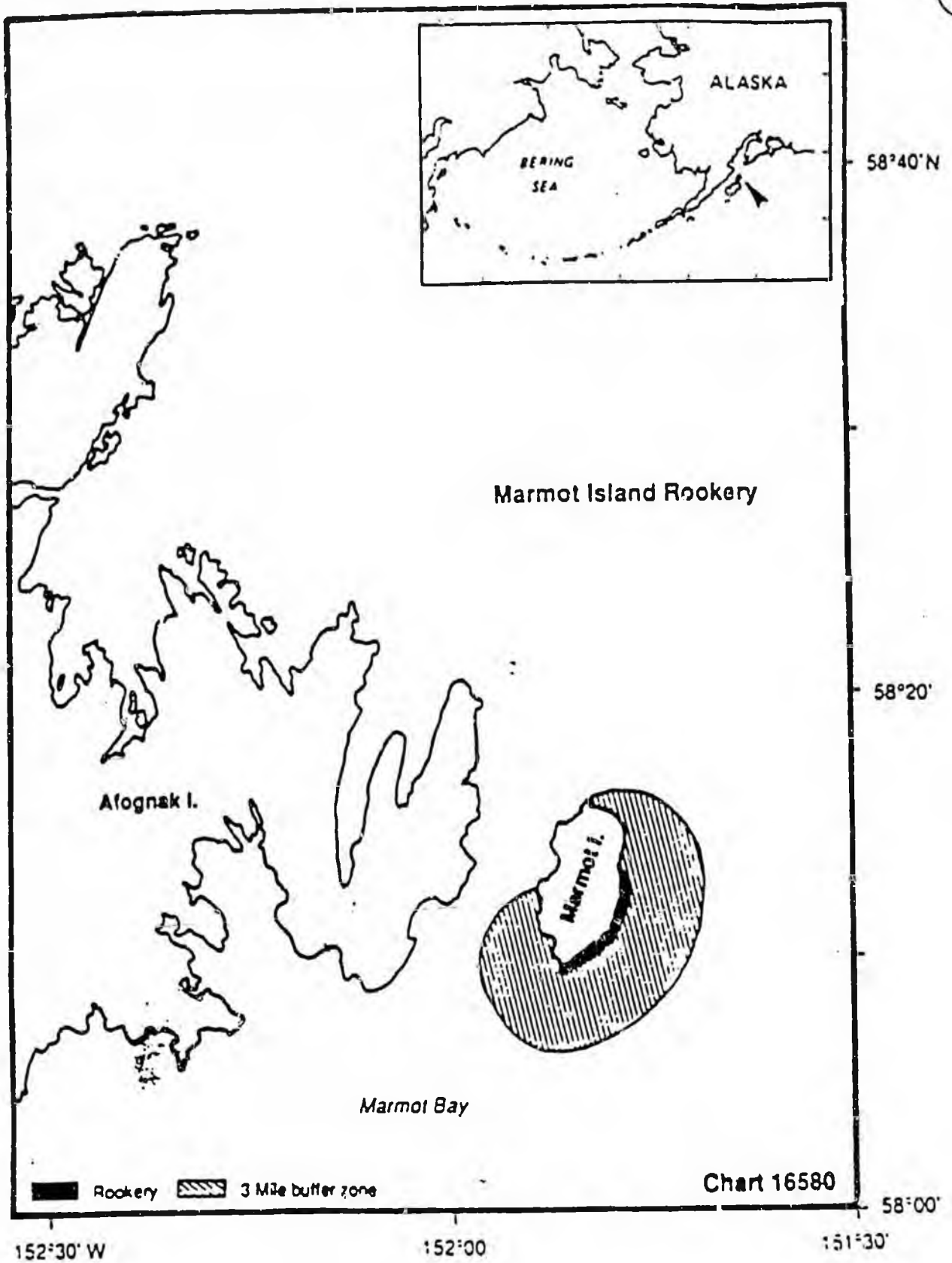


Figure 3 --- DRAFT ---

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STATE OF ALASKA
OFFICE OF THE GOVERNOR

7

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB 545	SPONSOR Resources Committee
SHORT TITLE OF BILL Marmot Island Critical Habitat Area			
DEPARTMENT POSITION Support with Amendments			
PREPARED BY Frank Rue, Director	DATE 4/17/90	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 4/17/90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUPS AFFECTED BY BILL Kodiak Island Residents, Wildlife Enthusiasts, Commercial Fisherman
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The purpose of the bill is to establish the Marmot Island Critical Habitat Area and provide for an effective date.

ANALYSIS OF BILL/PROGRAM EFFECTS

The bill achieves the following:

1. Establishes the Marmot Island Critical Habitat Area for the purpose of protection and enhancement of fish and wildlife habitat and populations, especially marine mammals, and seabirds.
2. Directs the Commissioner of Fish and Game to report biennially on the status of Stellar sea lions and the Marmot Island rookery.
3. Closes the area to mineral entry until the Steller sea lion population is removed from the threatened, endangered, and depleted species status under 16 USC 1531-1543.
4. Repeals the critical habitat area July 1, 2005.

AMENDMENTS PROPOSED

The Department of Fish and Game supports the bill with the following amendments.
(See attached)

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Attachment to Bill Analysis for SB 545
Amendments Proposed
Amend AS 16.20.630(a) as follows:

- (a) The following land and water is designated as the Marmot Island Critical Habitat Area:
- (1) Township 22 South, Range 15 West Seward Meridian
Section 19
Sections 30-31
 - (2) Township 22 South, Range 16 West, Seward Meridian
[SECTION 36: E1/2 E1/2 SE1/4 , E1/2 W1/2 E1/2 SE1/4]
Section 36: SE/4 , E1/2 E1/2 SW1/4
 - (3) Township 23 South, Range 15 West, Seward Meridian
Sections 6-7
Section 18
 - (4) Township 23 South, Range 16 West, Seward Meridian
[SECTION 1: E1/2 E1/2 , E1/2 W1/2 E1/2]
Section 1: E1/2 , E1/2 E1/2 W1/2
Section 12: E1/2 E1/2 , E1/2 W1/2 E1/2
Section 13
Section 14: E1/2 E1/2 E1/2 NE1/4 , E1/2 E1/2 E1/2 N1/2
SE1/4, S1/2 SE1/4
[SECTION 23]
Sections 22-24
 - (5) The State tideland, [AND] submerged land and water for a distance of one and one-half miles from the mean high tide line of the shoreline found on state land that is described in (1), (3), and (4) of this subsection; the boundary lines of the water described in this paragraph include the water of the state on the eastern shores of Marmot Island between lines extending
 - (A) one and one-half miles from the shoreline on a line extended northward from the boundary between Section 24, Township 22 South, Range 16 West, Seward Meridian and Section 19, Township 22 South, Range 15 West, Seward Meridian; and
 - (B) one and one-half miles from the shoreline on a line extended [SOUTHWARD] westward from the boundary between Sections 15 and 22 AND 23, Township 23 South, Range 16 West, Seward Meridian.

These changes are necessary to correct an error in the legal description (Section 7, Township 23 South, Range 15 West, Seward Meridian, and Section 24, Township 23 South, Range 16 West, Seward Meridian, were inadvertantly omitted); to include important sea

lion haulouts on the southern tip of the island; and to include a critical access point along the boundary of the critical habitat area.

Amend AS 16.20.630(c) as follows:

- (c) The commissioner shall report biennially to the legislature on the status of the Steller sea lions and the Marmot Island rookeries. The land and water described in (a) of this section is closed to mineral entry under AS 38.05.185-38.05.275 [UNTIL THE STELLER SEA LION POPULATION IS REMOVED FROM THREATENED, ENDANGERED, AND DEPLETED SPECIES STATUS UNDER 16 U.S.C. 1531-1543].

Proper protection and management of the Steller sea lions and their rookeries requires the closing of Marmot Island Critical Habitat Area to mineral entry to prevent surface disturbance and displacement of animals. These closures are essential for not only the recovery of Steller sea lion populations but for their long term maintenance and protection as well.

Omit Sec. 2. AS 16.20.630, [AS ENACTED IN SEC. 1 OF THIS ACT, IS REPEALED JULY 1, 2005].

Proper protection and management of the Steller sea lions and their rookeries requires critical habitat area status for not only the recovery of Steller sea lion populations but for their long term maintenance and protection as well.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

8
STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1798
PHONE: (907) 465-2400

April 18, 1990

The Honorable Bettye Fahrenkamp
Chair
Senate Resource Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

Subject: Senate Bill 545, Marmot Island Critical Habitat Area.

Position: The Department of Natural Resources supports the establishment of the Marmot Island Critical Habitat Area and the protection of Steller sea lion rookery and concentrated haulout habitat on Marmot Island.

Background: The Steller sea lion rookeries on the east side of Marmot Island, the largest in Alaska, are in decline, according to the Alaska Department of Fish and Game (ADF&G) and the National Marine Fisheries Service. As a result, the Steller sea lion has been listed as a threatened species under the provisions of the federal Endangered Species Act.

Prior to the introduction of Senate Bill 545, the Department of Natural Resources, recognizing the important habitat of Marmot Island for Steller sea lions, proposed establishment of an administrative Special Use Area for the south and central portions of the east side of Marmot Island. The Special Use Area would be managed by the Division of Land and Water Management to protect and preserve this important sea lion habitat and to minimize human disturbance of the Steller sea lions, which use the eastern beaches of Marmot Island.

A special use area designation could provide an immediate and comprehensive administrative alternative to a legislative critical habitat designation. It would also allow for management flexibility to respond to changing conditions, and would remain in effect at least until the adoption of the proposed Kodiak Area Plan for state land (approximately five years).

April 18, 1990

The Special Use Area proposal has already received extensive public and agency review, including a public meeting held in Kodiak last month. The proposal has the support of the borough and is now ready to be adopted if this legislation is not passed this session.

Technical Changes: The legal description does not include Section 7 of Township 23 South, Range 15 West, Seward Meridian, which according to information supplied by ADF&G, is a major rookery pupping and concentrated haulout area. We recommend the addition of Section 7.

Please contact me or my staff if you have further questions regarding this legislation.

Sincerely,



Lennie Gorsuch
Commissioner

Enclosures

cc: Bill Sponsor
Committee Members
Bob Evans, Legislative Liaison
Office of the Governor
Denby Lloyd, Special Staff Assistant
Office of the Governor



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

9

FOR IMMEDIATE RELEASE

April 5, 1990

Steller Sea Lions Designated as a Threatened Species

Juneau . . . The National Marine Fisheries Service adopted an emergency regulation today that designates Steller sea lions as a "threatened" species under the Endangered Species Act. This action was taken in response to a dramatic decline in the number of Steller sea lions counted at major rookeries in central and western Alaska between 1960 and 1989.

The emergency regulation prohibits shooting at or near any Steller sea lion in U.S. waters, except for Native subsistence. It also prohibits boats from coming within three miles of certain Steller sea lion rookeries (locations where pups are born) and empowers the Secretary of Commerce to place observers on any fishing vessel in order to monitor the accidental capture of sea lions in fishing gear. In addition, the regulation restricts the number of sea lions which may be accidentally caught and killed during fishing operations west of 141 degrees W. longitude to 675 animals.

The National Marine Fisheries Service will immediately initiate work on a plan to guide the long-term recovery of the Steller sea lion population. The Service will also continue to investigate the cause of the decline of the sea lion population. Possible causes include shooting, accidental capture during



commercial fishing operations, the influence of commercial fishing on food supply, disease, natural environmental fluctuations, or other unknown changes in the ecosystem. Surveys by the National Marine Fisheries Service have shown that counts of Steller sea lions in central and western Alaska have dropped 63% since 1985 and 82% since 1960. On rookeries from the Kenai Peninsula to Kiska Island in the western Aleutians, the total number of sea lions counted has declined from a high of 140,000 in 1956-60 to about 25,000 in 1989.

Violations of laws protecting Steller sea lions are subject to severe civil and criminal penalties, including fines of up to \$25,000, imprisonment for up to one year, and vessel forfeiture.

For more information on this emergency regulation, contact Steve Pennoyer, Regional Director, National Marine Fisheries Service, at 586-7221.

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COMPLIMENTS OF
UNITED FISHERMEN'S MARKETING ASSOCIATION, INC.
Box 1035, Kodiak, Alaska 99615
Tel. (907) 486-3453

Original sponsor(s): Resources Committee

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 545 (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 relating to establishing the Marmot Island
7 Critical Habitat Area; and providing for an effective
8 date."

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

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

11 Sec. 16.20.630. MARMOT ISLAND CRITICAL HABITAT AREA. (a) The
12 following land and water is designated as the Marmot Island Critical
13 Habitat Area:

14 (1) Township 22 South, Range 15 West, Seward Meridian
15 Section 19
16 Sections 30 - 31

17 (2) Township 22 South, Range 16 West, Seward Meridian
18 Section 36: E1/2SE1/4, E1/2W1/2SE1/4

19 (3) Township 23 South, Range 15 West, Seward Meridian
20 Sections 6 - 7
21 Section 18

22 (4) Township 23 South, Range 16 West, Seward Meridian
23 Section 1: E1/2 E1/2, E1/2W1/2E1/2
24 Section 12: E1/2E1/2, E1/2W1/2E1/2
25 Section 13
26 Section 14: E1/2E1/2E1/2NE1/4, E1/2E1/2E1/2N1/2-
27 SE1/4, S1/2SE1/4
28 Section 22: E1/2
29 Sections 23 - 24

1 (5) the tideland and submerged land and water for a dis-
2 tance of one and one-half miles seaward from the mean high tide line
3 of the shoreline found on state land that is described in (1), (3),
4 and (4) of this subsection; the boundary lines of the water described
5 in this paragraph include the water of the state on the eastern shores
6 of Marmot Island between lines extending

7 (A) one and one-half miles from the shoreline on a
8 line extended northward from the boundary between Section 24,
9 Township 22 South, Range 16 West, Seward Meridian and Section 19,
10 Township 22 South, Range 15 West, Seward Meridian; and

11 (B) one and one-half miles from the shoreline on a
12 line extended southward along the western boundary of Section 22:
13 E1/2, Township 23 South, Range 16 West, Seward Meridian.

14 (b) The Marmot Island Critical Habitat Area is established to
15 ensure the protection and enhancement of fish and wildlife habitat and
16 populations, especially Steller sea lions.

17 (c) The commissioner shall report biennially to the legislature
18 on the status of the Steller sea lions and the Marmot Island rook-
19 eries. The land and water described in (a) of this section is closed
20 to mineral entry under AS 38.05.185 - 38.05.275, until the Steller sea
21 lion population is removed from threatened, endangered, and depleted
22 species status under 16 U.S.C. 1531 - 1543.

23 (d) The commissioner shall allow historical, traditional, and
24 public uses, including fishing, hunting, trapping, mechanized and
25 nonmechanized public access, grazing, trading, firewood harvesting,
26 wildlife viewing, hiking, and berry picking to the extent the activ-
27 ities are compatible with the purposes for which the critical habitat
28 area was established.

29 * Sec. 2. AS 16.20.630, as enacted in sec. 1 of this Act, is repealed

Stipulation

Repealer clause

Repealer clause

1 July 1, 2005.

2 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).