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# SENATE FINANCE COMMITTEE REPORT

DATE: 5/6/90

FURTHER:

DATE TURNED INTO OFFICE: 5/7/90

The Finance Committee considered

CSHB 346 (Resources)

"An Act establishing the Yakataga State Game Refuge; relating to the management of state land within the Yakataga area; and providing for an effective date."

and recommended:

replace with \_\_\_\_\_ CS  
 or adopt S CS CSHB 346 (Res)  
 attached amendment(s)  
 Finance letter of intent adopted

same title  
 new title  
 technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):

fiscal note(s) DNR 5/1/90  
155.0

zero fiscal note(s) \_\_\_\_\_

appropriation-no fiscal note

SIGNING DO PASS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1. Dale B... DO PASS  
Co-Chairs: Signatures and Recommendations

APPROVES PREVIOUS:

fiscal note(s) \_\_\_\_\_ Dept/Date:

zero fiscal note(s) \_\_\_\_\_

OTHER RECOMMENDATIONS:

[Signature]  
[Signature] - NO REC  
[Signature] No Rec  
[Signature] No Rec  
[Signature] (NO REC)

2. \_\_\_\_\_  
Co-Chairs: Signatures and Recommendations

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: SCS CS HB 346 (Res)  
PUBLISH DATE: 5/6/90

FISCAL NOTE

REQUEST:

Revision Date: 1-May-90  
Title: Yakataga State Game Refuge  
Sponsor: House Resources  
Requestor: Senate C&RA  
Agency Affected: Natural Resources  
BRU: Land & Water Mgmt  
Components: Land & Water Mgmt

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	95.0	95.0	95.0			
TRAVEL	16.3	13.3	17.0			
CONTRACTUAL	33.2	10.0	10.0			
SUPPLIES	10.5	1.0	17.8			
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	155.0	119.3	139.8	0.0	0.0	0.0

CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	155.0	119.3	139.8			
FEDERAL FUNDS						
OTHER						
TOTAL	155.0	119.3	139.8	0.0	0.0	0.0

POSITIONS:

FULL-TIME	2.0	2.0	2.0			
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Larry Ostrovsky  
Division: Commissioner's Office  
Phone: 465-2400  
Date: 1-May-90  
Approved by Commissioner: Lenrie Gorsuch  
Agency: Department of Natural Resources  
Date: 1-May-90

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

Changes in SCS CS HB 346 (Fin) have no fiscal impact. This fiscal note is appropriate. 5/7/90

Adopted

In addition to DNR planning costs, there will be additional fiscal impacts from this legislation.

1. If DNR and the University agree to a buy back figure and the legislature fails to appropriate the amount for the buy back, the general fund could lose approximately \$1.3 million (\$600.0 currently owed by Chugach to the state, and \$500.0-700.0 estimated stumpage from the Icy Cape extension).

2. The cost of a buy back of the Cape Suckling and Yakataga parcels is undetermined at this time. It will likely be in the millions of dollars, depending upon prevailing timber prices at the time.

Cost of negotiations and new appraisal for a University Timber Rights Acquisition.

Travel for negotiations	1.0
Review of appraisal contact	<u>20.0</u>
Total	21.0

**COST FOR YAKATAGA AREA PLAN  
FISCAL YEAR 91**

<u>100 Personal Services</u>		
Natural Resource Manager I (18A)		\$ 50.5
Natural Resource Manager II (16A)		<u>44.5</u>
		\$ 95.0
<u>200 Travel</u>		
Planning team meetings (for each mtg. 3 staff Jnu-Anc or Anc-Jnu), 5 meetings x \$550 (airfare + 2 days per diem)	8.3	
Public meetings-issues (3-4 Communities) Planning Area Overflight	7.0	
		<u>15.3</u>
<u>300 Contractual</u>		
Publish introductory brochure	2.0	
Xeroxing, newsletters, ads	3.0	
Inventory work, mapping	6.0	
Print resource and issues reports	<u>2.2</u>	
		13.2
<u>400 Supplies</u>		
Set-up and Misc. Supplies	<u>10.5</u>	
		10.5
<b>TOTAL:</b>		<b>\$134.0</b>

**FISCAL YEAR 92**

<u>100 Personal Services</u>		
Natural Resource Manager I (18A)		\$ 50.5
Natural Resource Manager II (16A)		<u>44.5</u>
		\$ 95.0
<u>200 Travel</u>		
Planning team meetings (5)	8.3	
Public meetings - alternatives	<u>5.0</u>	
		13.3
<u>300 Contractual</u>		
Alternatives brochures	5.0	
Xeroxing, summary of comments, etc.	<u>5.0</u>	
		10.0
<u>400 Supplies</u>		
Miscellaneous Supplies	<u>1.0</u>	
		1.0
<b>TOTAL:</b>		<b>\$119.3</b>

Proposed Yakataga Area Plan  
DNR Budget Summary

<u>FY 91</u>	<u>FY 92</u>	<u>FY 93</u>	
	(figures are in thousands)		
Personal Services	95.0	95.0	95.0
Public Meetings (travel, brochures, xeroxing, etc.)	9.0	12.0	17.0
Resource Assessment Research (travel, mapping, printing)	10.2		
Printing Final Plan			10.0
Supplies, xeroxing, misc mapping, travel to planning team meet- ings, etc.	19.8	12.3	17.8
<b>TOTAL</b>	<b>\$134.0</b>	<b>\$119.3</b>	<b>\$139.8</b>

Original sponsor(s): Resources Committee

1 IN THE HOUSE BY THE RESOURCES COMMITTEE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 346 (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 establishing the Yakataga State Game Refuge;  
7 relating to the management of state land within the  
8 Yakataga area; and providing for an effective 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. 16.20.033. YAKATAGA STATE GAME REFUGE. (a) The following  
12 state-owned land and water and all land acquired in the future by the  
13 state lying within the parcels described in this subsection are estab-  
14 lished as the Yakataga State Game Refuge:  
15 (1) Township 20 South, Range 13 East, Copper River Meridian  
16 Section 11: SE1/4  
17 Section 12: S1/2  
18 Section 13  
19 Section 14: E1/2  
20 Sections 22 - 27  
21 Sections 34 - 36  
22 (2) Township 20 South, Range 14 East, Copper River Meridian  
23 Sections 7 - 12: S1/2  
24 Sections 13 - 36  
25 (3) Township 20 South, Range 15 East, Copper River Meridian  
26 Sections 7 - 12: S1/2  
27 Sections 13 - 36  
28 (4) Township 20 South, Range 16 East, Copper River Meridian  
29 Sections 7 - 9: S1/2





1 this section does not impair or alter valid existing rights including  
2 pending Native allotment applications, access to set net sites, and  
3 access to and from private land located within the Yakataga State Game  
4 Refuge.

5 (e) The department shall allow commercial, sport, and subsis-  
6 tence fishing and hunting within the Yakataga State Game Refuge under  
7 regulations of the Board of Fisheries and the Board of Game. The  
8 department shall also permit associated support activities when neces-  
9 sary and consistent with AS 16.20.010 - 16.20.080 to support fishing  
10 and hunting permitted under this section, including fish buying  
11 operations, aircraft support including landing strips, and off-road  
12 vehicle use.

13 (f) Egress and ingress to and from private property within the  
14 parcels described in (a) of this section shall be allowed through  
15 access corridors established by agreement between the department, the  
16 Department of Natural Resources, and the owners of private land in-  
17 volved. The establishment of the Yakataga State Game Refuge does not  
18 impair or alter existing rights of access to set net lease sites.

19 (g) The department shall adopt and may revise a management plan  
20 for the Yakataga State Game Refuge.

21 \* Sec. 2. AS 16.20.033(a)(5) is amended to read:

22 (5) Township 21 South, Range 11 East, Copper River Meridian  
23 [EXCLUDING THAT PORTION OF] Tract A-148 lying north  
24 and west of Seal River [:]

25 Sections 1 - 2

26 Sections 3 - 4: North and east of the Seal River  
27 and its associated lake system

28 Section 10: East of Seal River and one mile north  
29 of mean high tide line on the Gulf of Alaska

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Sections 11 - 12

Sections 13 - 14: Above mean high tide line on  
the Gulf of Alaska

\* Sec. 3. AS 16.20.033(a) is amended by adding new paragraphs to read:

(12) Township 21 South, Range 9 East, Copper River Meridian  
Tract A-148

(13) Township 21 South, Range 10 East, Copper River Meridian  
Tract A-148.

\* Sec. 4. AREA PLAN AND REPORT TO THE LEGISLATURE. (a) The commis-  
sioner of natural resources shall undertake and complete an area plan for  
the Yakataga area, the state land and water located between Icy Bay and  
Cape Suckling, under AS 38.04.065 and the regulations of the Department of  
Natural Resources. The area plan completed under this section does not  
include the land of the Yakataga State Game Refuge.

(b) The commissioner of natural resources shall consider the full  
range of management options for the timber rights in each tract of land of  
the University of Alaska (ADL 223456) under litigation, including and  
excluding timber harvest.

(c) The area plan shall be completed by July 1, 1993, and shall be  
delivered to the chairs of the Resource Committees of the legislature. The  
commissioner may include with the area plan recommendations for legislation  
defining a part of the area as a state park, state forest, state game  
refuge, state critical habitat area, or other special designation.

(d) Except as provided in this subsection and (e) of this section and  
subject to valid existing rights, the commissioner of natural resources may  
not conduct timber or timber-related construction activity, including road  
construction, timber sales and commercial timber harvests in the Yakataga  
area, the area between Icy Bay and Cape Suckling, until July 1, 1993. The  
commissioner may maintain existing timber harvest facilities. This section

1 does not diminish the right of a private property owner to have access or  
2 develop its land or resources or the authority of an agency to grant appro-  
3 val for access or development.

4 (e) The commissioner may permit the harvest of timber within the  
5 parcel described as Tract 152 at White River under ADL 223456.

6 \* Sec. 5. TIMBER TRACTS OF THE UNIVERSITY OF ALASKA. (a) The  
7 commissioner of natural resources shall engage in every reasonable effort  
8 to achieve a settlement of litigation involving the City of Yakutat v. the  
9 Department of Natural Resources (Civil No. 1JU-88-271) that accommodates  
10 the rights of the University of Alaska to compensation for university trust  
11 land conveyed to the Municipality of Anchorage. The commissioner shall,  
12 for the purposes of settlement of the litigation, consider the timber in  
13 the tracts transferred as ADL 223456 as the property of the university.  
14 Nothing in this subsection affects the claims or rights of a party to the  
15 litigation.

16 (b) The commissioner of natural resources shall engage in every  
17 reasonable effort to reach agreement on the fair market value for the  
18 timber rights to Tract A-148 at Cape Suckling and Tract 20 at Yakataga.  
19 The commissioner shall report the fair market value agreed upon by the  
20 commissioner and the University of Alaska under this subsection to the  
21 chairs of the resources committees of the legislature on the date the  
22 commissioner and the university reach agreement on the fair market value  
23 determined under this subsection.

24 (c) Regardless of the disposition of City of Yakutat v. the Depart-  
25 ment of Natural Resources (Civil No. 1JU-88-271), the legislature intends  
26 that the state reacquire from the University of Alaska its interest in  
27 Tract A-148 at Cape Suckling and Tract 20 at Yakataga. The legislature  
28 intends to compensate the University of Alaska for Tract A-148 and Tract 20  
29 based on the agreement on the fair market value reached under (b) of this

1 section. If the commissioner and the University of Alaska reach agreement  
2 on the fair market value determined under (b) of this section, all money  
3 received in satisfaction of the court order issued in Sullivan v. State  
4 after the date of agreement shall be transferred to the University of  
5 Alaska trust fund as additional earnest money for the reacquisition of the  
6 timber rights of the University of Alaska on Tract A-148 at Cape Suckling  
7 and Tract 20 at Yakataga.

8 (d) The commissioner of revenue shall establish a trust account in  
9 the general fund of the state. The commissioner of natural resources shall  
10 transfer to the commissioner of revenue for deposit into the trust account  
11 any amounts paid from July 1, 1990, through the date the commissioner and  
12 the university reach agreement under (b) of this section, with respect to  
13 rights arising under the Icy Cape II Timber Sale Contract, ADL 203002. The  
14 commissioner of revenue shall, on the date the commissioner and the univer-  
15 sity reach agreement under (b) of this section, transfer funds received  
16 under this subsection to the University of Alaska if an agreement on the  
17 agreed fair market value is reached under (b) of this section by  
18 January 21, 1991. If an agreement is not reached under (b) of this section  
19 by January 21, 1991, the funds shall be transferred to the general fund of  
20 the state.

21 \* Sec. 6. LEGISLATIVE INTENT. It is the intent of the legislature that  
22 the establishment of the Yakataga State Game Refuge only take effect if the  
23 administrative decision of the commissioner of natural resources that  
24 authorizes timber harvesting in the "extension area" under the Icy Cape II  
25 timber sale, ADL 203002, as amended on March 7, 1990, is not challenged in  
26 the Alaska Superior Court by administrative appeal within the time permit-  
27 ted by law, or, if appealed, the decision is affirmed by a final judicial  
28 order not subject to further appeal.

29 \* Sec. 7. Sections 2 - 3 of this Act take effect on the effective date

1 of an appropriation Act appropriating to the University of Alaska those  
2 amounts necessary to compensate the university for the agreed value reached  
3 under sec. 5(b) of this Act for the interest of the university in Tract  
4 A-148 at Cape Suckling after crediting to the university those amounts  
5 received by the university under sec. 5(c) and (d) of this Act.

6 \* Sec. 8. Sections 1 and 4 - 5 of this Act take effect on the date that  
7 the commissioner of natural resources certifies to the lieutenant governor  
8 and the revisor of statutes that the administrative decision of the commis-  
9 sioner authorizing timber harvesting in the extension area under the Icy  
10 Cape II timber sale, ADL 203002, as amended on March 7, 1990, has become  
11 final and is not subject to further administrative or judicial review.

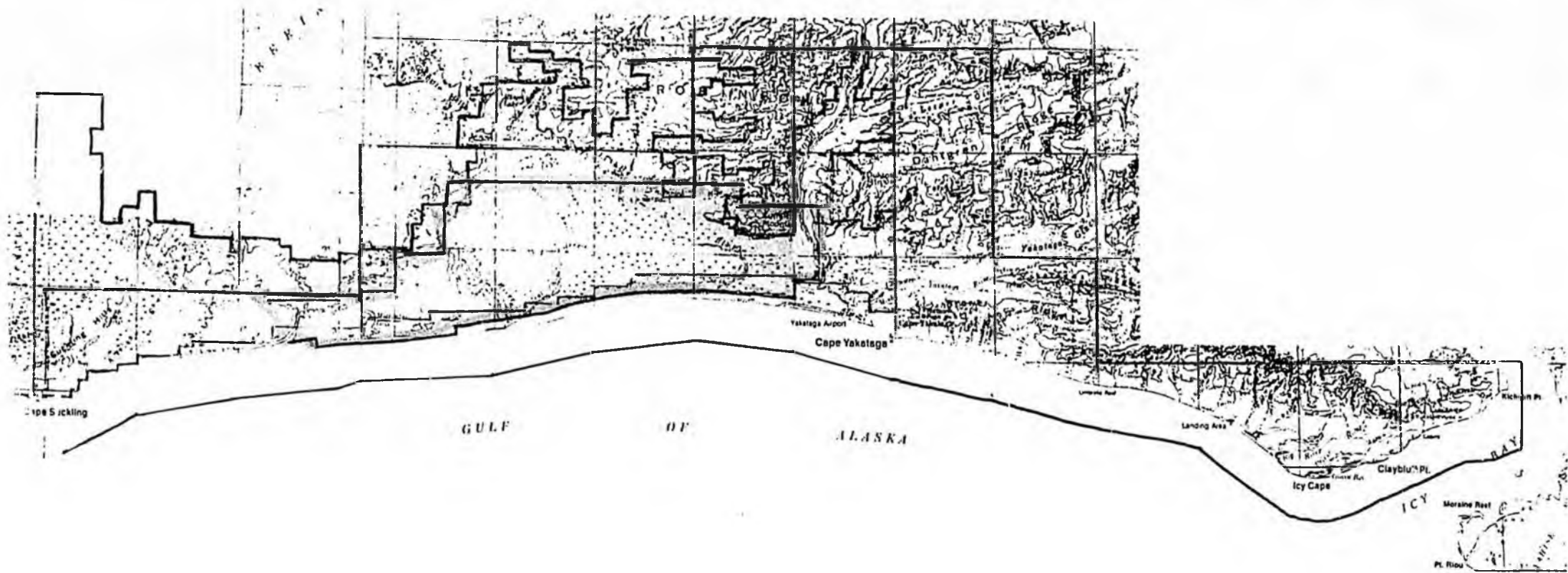
5/7/90

*By [unclear]*  
*Adopted*

SENATE FINANCE COMMITTEE  
LETTER OF INTENT  
Senate CS For CS For House Bill 346

It is the intent of the Senate Finance Committee that all historical and traditional uses of the land and water within the Yakataga State Game Refuge, in addition to the public uses already listed in statute, shall be allowed to continue to the extent they are compatible with the purposes for which the refuge was established.

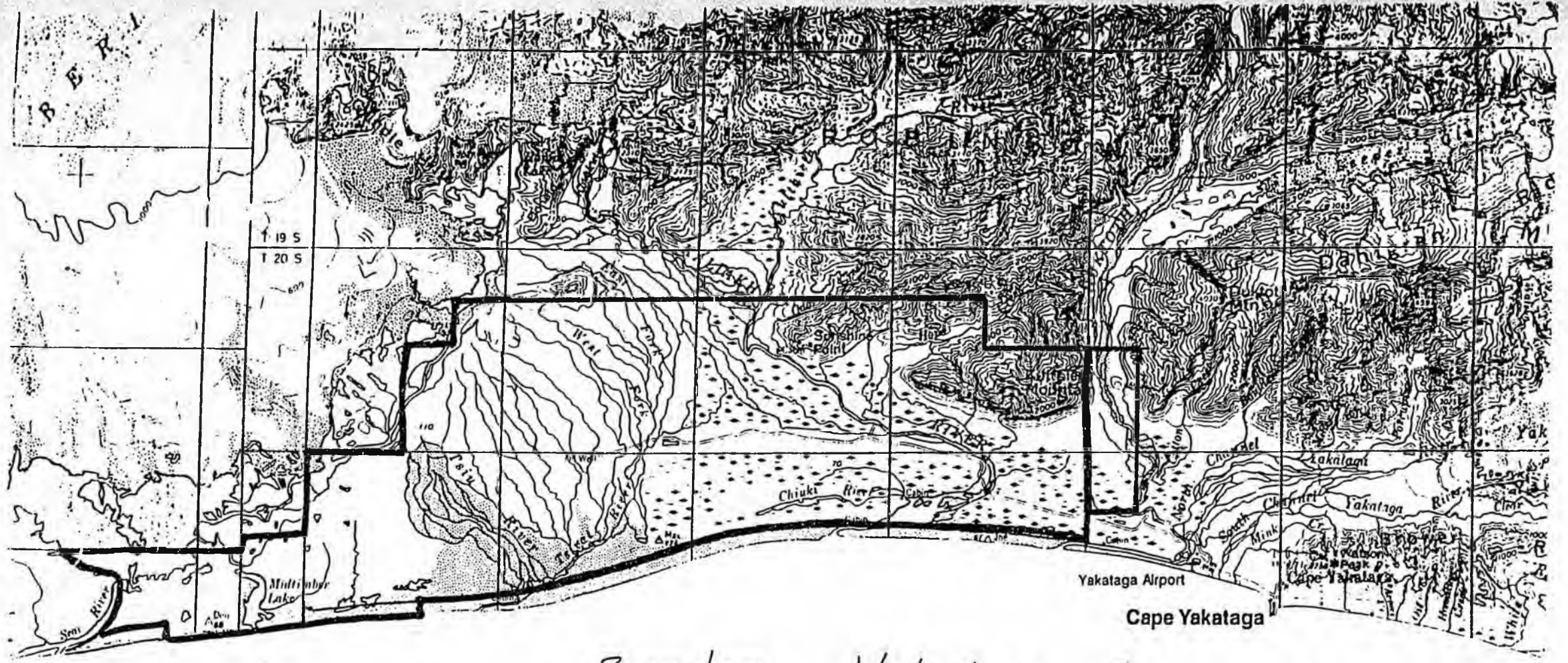
5/7/90 Jan  
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DNR FURTHER PLANNING AREA

HOUSE-PASSED GAME REFUGE

SENATE COMPROMISE GAME REFUGE



Boundary, Yakutat Game Refuge

GULF

OF

ALASKA

5/7/90

Pearce

Failed

A M E N D M E N T #1

OFFERED IN THE SENATE

TO: SCS CSHB 346 (Resources)

Page 1, lines 26 - 27:

Delete "Sections 7 - 12: S1/2  
Sections 13 - 36"

Insert "Sections 7 - 8: lying West of the Kaliakh River  
Section 17: lying West of the Kaliakh River  
Sections 18 - 20  
Sections 21 - 22: lying West of the Kaliakh River  
Section 26: lying West of the Kaliakh River  
Sections 27 - 35  
Section 36: lying West of the Kaliakh River"

Page 1, line 29, through Page 2, line 1:

Delete "Sections 7 - 9: S1/2  
Sections 16 - 36"

Insert "Sections 31 - 33: lying West of the Kaliakh River"

Page 3, line 12:

Delete "Sections 1 - 6"

Insert "Section 4: lying West of the Kaliakh River  
Sections 5 - 6"

## **Sectional Analysis**

### **SCS CSHB 346 (RES)**

**Sec. 1 (a)** establishes the Yakataga State Game Refuge which encompasses approximately 110,000 acres excluding state selected federal lands.

**Sec. 1 (d)** allows current users with valid existing rights to have access to set net sites, pending Native allotment applications and private inholdings. This subsection does not allow trespass cabins or any other structures not permitted by DNR.

**Sec. 1 (e)** commercial, sport and subsistence fishing and hunting are allowed within the game refuge as regulated by ADF&G. Activities supporting approved fishing and hunting activities such as fish-buying operations; aircraft support, including landing strips, and operation of ATVs are also permitted. Standardized language describing rights of ingress and egress has been included at the request of the Alaska Miner's Association.

**Sec. 2-3** legal description for the **Cape Suckling** parcel.

**Sec. 4 (a-c)** directs the commissioner of DNR to create an area plan for lands between Cape Suckling and Icy Bay and excluding the area designated as the Yakataga Game Refuge. The area plan is to be completed by July 1, 1993. DNR shall manage the timber parcels held by the University of Alaska for multiple use.

**Sec. 4 (d-e)** DNR may not allow timber sales, commercial timber harvests or timber-related construction activities in the area between Cape Suckling and Icy Bay until July 1, 1993. This suspension of timber-related activities does not preclude the rights of private property owners to develop their land or the authority of an agency to allow access or land development. During the planning process, DNR may permit timber harvesting within the Icy Cape II and the University's White River parcels. This satisfies the State's settlement agreement to provide the Chugach Corporation with a guaranteed area of harvestable timber.

**Sec. 5 (a)** directs DNR to make every reasonable effort to resolve litigation between the department and the City of Yakutat and not disenfranchise the University of Alaska's interests in the Cape Suckling and Yakataga parcels.

**Sec. 5 (b-c)** DNR shall make every reasonable effort to negotiate a **fair market value** for the timber rights to the Cape Suckling and Yakataga parcels and reacquire the University's interests in these lands.

**Sec. 5 (d)** the Department of Revenue shall establish a trust account in the general fund of the state to receive monies from DNR. DNR shall deposit monies received from Chugach Alaska Corporation as settlement of Sullivan v. State of Alaska into the trust account as **earnest money** for purchasing the U of A timber rights.

If, by January 21, 1991, DNR and the U of A reach an agreement regarding the the fair market value of the Cape Suckling and Yakataga timber rights, then the monies in the trust account will be transferred to the **University of Alaska**. If an agreement is not reached, then the monies in the trust account will be transferred to the **general fund**.

**Sec. 6** states legislative intent to assure Chugach Corporation's access to timber within the Icy Cape II "extension."

**Sec. 7** the Cape Suckling parcel becomes part of the game refuge when additional funds are appropriated by the legislature to pay the balance owed on the Cape Suckling timber rights.

**Sec. 8** the effective date for creation of the Yakataga Game Refuge; the initiation of the area plan and settlement of the University litigation will be when Chugach is assured access to timber in the Icy Cape II Extension area.



State of Alaska  
Senate Community and Regional Affairs  
Committee

Senator Mike Szymanski, Chairman  
Senator Al Adams  
Senator Steve Frank  
Senator Drue Pearce  
Senator Pat Pourchot

P.O. Box V  
Juneau, AK 99811  
(907) 465-4978

YAKATAGA STATE GAME REFUGE SENATE COMPROMISE  
(C&RA Committee Substitute for HB 346)

After discussions with the various interests working on this legislation and with the Senators and Representatives whose districts are involved, the Senate Community and Regional Affairs Committee has arrived at a carefully crafted committee substitute. This compromise bill, a section by section analysis, and a map are attached. These are some of the features of the Senate C&RA compromise:

Wildlife Refuge

The area depicted in pink on the attached map represents the new wildlife refuge boundary, an area of approximately 115,000 acres. According to the local fishermen and communities, this new boundary encompasses the most critical fish, moose, and bear habitat, and significant amounts of the mountain goat habitat in the Yakataga area. However, it reduces the House-passed boundary by more than 150,000 acres and avoids potential conflicts with other resource uses.

Area Plan

The remainder of the 500,000 acre Yakataga area (depicted in green on the attached map) would be subject to an area plan, prepared by DNR, which determines its highest and best use. DNR strongly supports further planning in the Yakataga area.

University Timber

The University's timber rights at Cape Yakataga and Cape Suckling could be reacquired and added to the game refuge later, pending an appraisal and future legislative appropriation. Earnest money for reacquisition of the University's timber would be provided from the receipts from other timber sales in the Yakataga area, not a general fund appropriation.

Chugach Corporation

Chugach Corporation's substantial interests in the Yakataga area are fully protected by guarantees of access and by the movement of the game refuge boundary away from Chugach's private land. An additional provision guarantees the state's fulfillment of the settlement agreement with Chugach over the Icy Cape II timber sale litigation and conditions establishment of the game refuge on the lack of further litigation by third-parties challenging that timber sale.

Multiple-Use Assurances

Inside the game refuge, resource development -- including logging and mining -- is specifically allowed, as long as fish and wildlife values are protected. Outside the game refuge, all multiple use activities are allowed to continue unimpeded. Planning by DNR will determine the best allocation of lands to the various resource needs. Nothing in the legislation affects the rights or traditional activities of commercial or subsistence hunters or fishermen, guides, Native allottees, or inholders.

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: Yakataga State Game Refuge  
       Established  
 Sponsor: Resources Committee  
 Requestor: House Resources Committee

Agency Affected: All Agencies  
 BRU: \_\_\_\_\_  
 Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

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

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**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)

Prepared by: House Resources Committee Phone: 465-4944  
 Division: Representative Curt Menard Date: 4/10/90

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Agency: \_\_\_\_\_

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