

S B

545

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 4/7/90

FURTHER:

Date of 5-Day Notice: 4-10-90
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4-20-90

Resources

Committee considered

SB 545

Establishing the Marmot Island Critical Habitat Area; efd.

and recommended:

- replace with _____ CS SB545 (Res) same title
- attached amendment(s) new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Curtis Sturgulowski

Paul J. Stangor

Mike ... *via Chan*

Rich Halford NO REC

Drone NO REC

Chair: Signature and Recommendation

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
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



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER CSSB545	SPONSOR Resources Committee
SHORT TITLE OF BILL Marmot Island Critical Habitat Area			
DEPARTMENT POSITION Support with amendments			
PREPARED BY Frank Rue, Director	DATE 4.21.90	COMMISSIONER'S SIGNATURE	DATE

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL Kodiak Island Residents, Wildlife enthusiasts, Commercial Fishermen
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

1. Establishes the Marmot Island Critical Habitat Area for the purpose of protection and enhancement of fish and wildlife habitat and populations, especially Steller sea lions.
2. Directs the Commissioner of Fish and Game to report biennially on the status of Steller 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. Allows for historical, traditional and public uses, including hunting, trapping, mechanized and non-mechanized public access, grazing, trading, firewood harvesting, wildlife viewing, hiking, and berry picking to the extent the activities are compatible with the purposes for which the critical habitat area was established.
5. 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 CSSB 545

Amendments Proposed

(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.

Amend AS 16.20.630 (d) as follows:

(d) The commissioner shall allow historical, traditional, and public uses, including fishing, hunting, trapping, mechanized and non-mechanized public access, [GRAZING, TRADING, FIREWOOD HARVESTING,] wildlife viewing, hiking, and berry picking to the extent the activities are compatible with the purposes for which the critical habitat area was established.

Grazing, trading and firewood harvesting should not be specifically listed. Grazing of hogs on Marmot Island is one of the threats to island habitat which generated interest in critical habitat area designation and is not an appropriate activity in the critical habitat area. Trading per se is not an activity which is known to occur in the area at this time. With only one part time resident living on the far side of the island, and with an abundance of firewood occurring on the island outside of the critical habitat area, firewood gathering inside the critical habitat area is not an essential use and should not be listed.

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.

April 7, 1990

SENATE JOURNAL

p. 3286

SB 545

SENATE BILL NO. 545 by the Resources Committee, entitled:

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

was read the first time and referred to the Resources Committee.

April 21, 1990

SENATE JOURNAL

p. 3503

SB 545

The Resources Committee considered SENATE BILL NO. 545 (An Act relating to establishing the Marmot Island Critical Habitat Area; and providing for an effective date) and a majority of the committee recommended it be replaced with

CS FOR SENATE BILL NO. 545 (Resources)

and do pass. The report was signed by Senator Kerttula, Vice-Chair, and concurred in by Senator Sturgulewski and Zharoff. Senators Halford and Frank signed "no recommendation."

Zero fiscal notes for SENATE BILL NO. 545 and the Committee Substitute published today from Department of Fish and Game.

SENATE BILL NO. 545 was referred to the Rules Committee.

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	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						
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)

when available through 1990.

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

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)



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

5

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



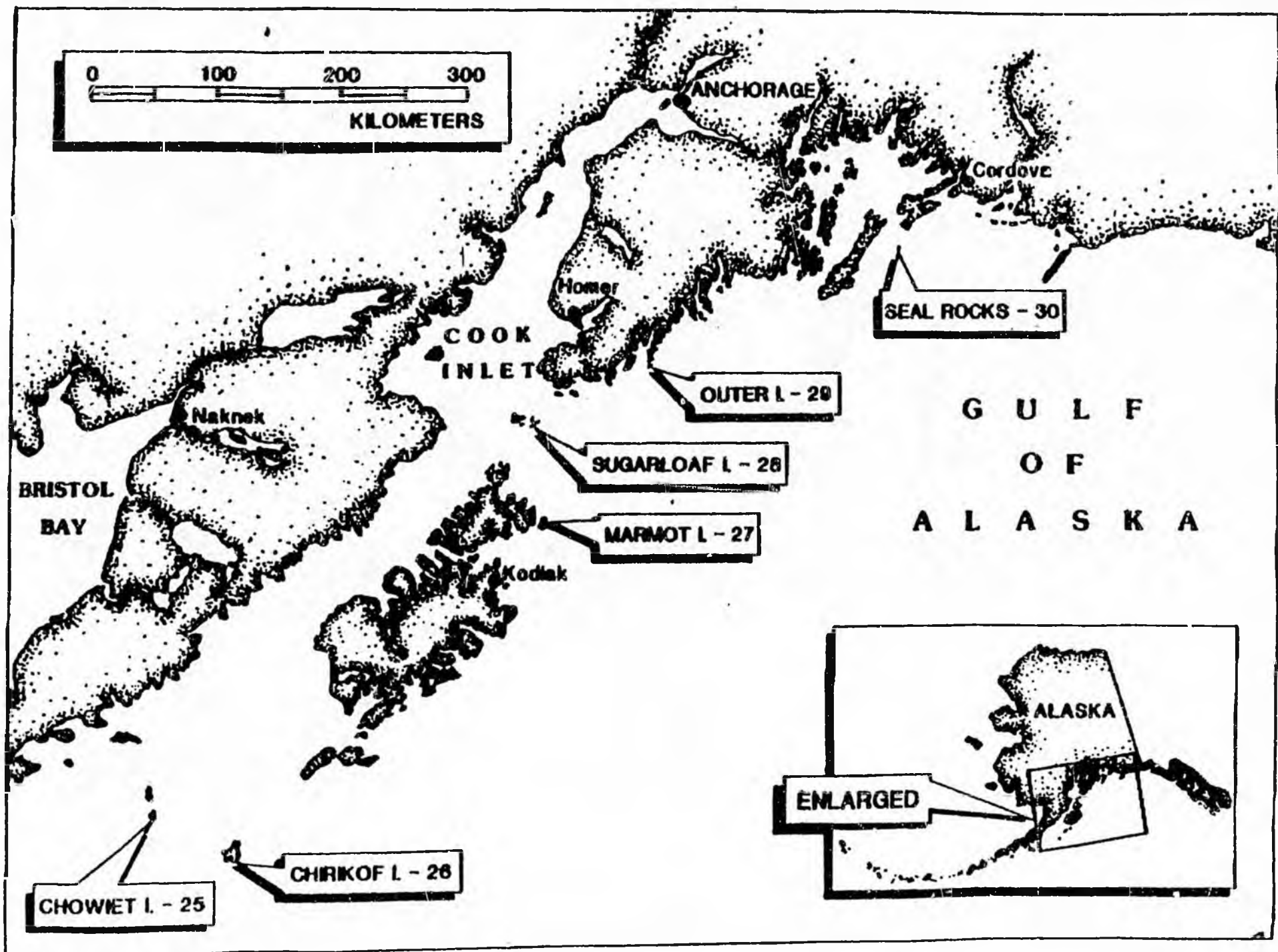


Figure 3: --- DRAFT ---

For Nancy



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 • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Dick Bradley
Legal Services Division

FROM: Senator Fred F. Zharoff

DATE: April 19, 1990

RE: Changes for CS For SB 545

On behalf of the Senate Resources Committee and Chairperson Sen. Bettye Fahrenkamp, I wish to request the preparation of a Senate Resources Committee CS for SB 545. The bill will be brought back before the committee at 1:30 on Friday. The CS should include the changes described below.

In Section 1, the Department of Fish and Game reviewed the legal description and noted that some corrections and additions needed to be made. They are:

On page 1, line 18, the description for Section 36 should be E1/2 SE1/4, E1/2 W1/2, SE1/4.

On page 1, between lines 20 and 21, insert: "Section 7"

On page 1, between lines 27 and 28, insert: "Section 22"

On page 1, between lines 28 and 29, insert: "Section 24"

On page 1, line 29, insert: "water". So the sentence reads, "(5) the tideland and submerged land and water for a distance of one...."

On page 2, lines 11-12, delete: "from the boundary between Sections 22 and 23, Township 23 South, Range 16 West, Seward Meridian." In its place, insert: "along the western boundary of Section 22E1/2, Township 23 South, Range 16 West, Seward Meridian."

The purpose of the above is so the critical habitat area will match the boundaries on the attached map. Also, please see the attached copy of SB 545, as marked up by the Habitat Division.

On page 2, line 15, delete: "marine mammals and seabirds." In its place, insert: "Steller sea lions."

Memo to Legal Services - page 2

On page 2, lines 17 and 19, correct spelling to read "Steller".

Insert new paragraph (d) in Sec. 1. The new paragraph should read:

(d) The department shall allow public uses, including fishing, hunting, trapping, mechanized and non-mechanized public access, grazing, trading, firewood harvesting, wildlife viewing, hiking, and berry picking to the extent the activities are compatible with the purposes for which the critical habitat area was established. The provisions of this statute apply only to the land and water designated as the Marmot Island Critical Habitat Area. Historical and traditional uses of the area outside the critical habitat area shall be permitted.



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

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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

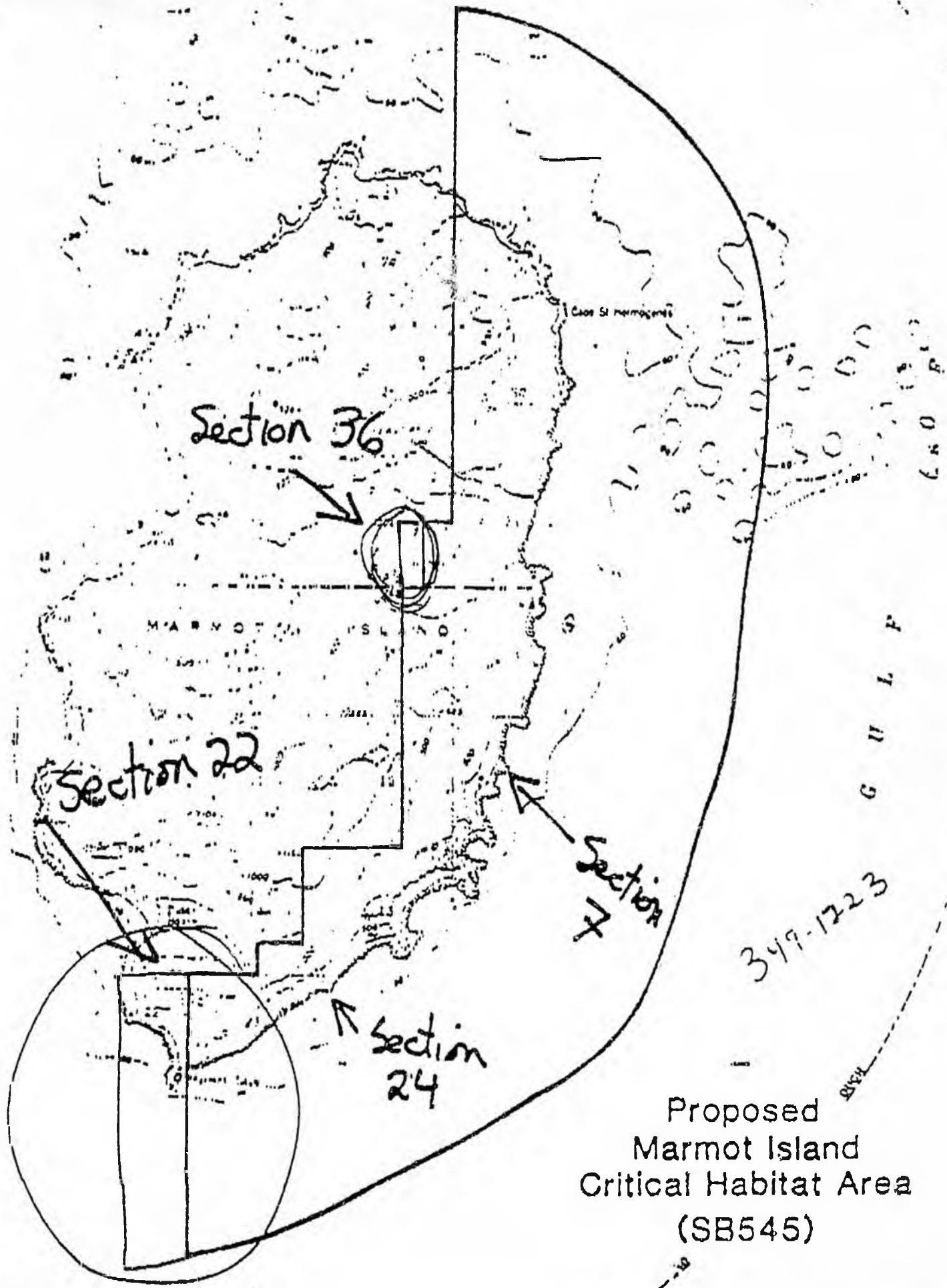
- (a) Legal description of the boundaries of the Marmot Island Critical Habitat Area.
- (b) Statement of purpose for the critical habitat area.
- (c) Requires the commissioner of the Department of Fish and Game to report to the legislature every two years on the status of the Stellar sea lions and the 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.

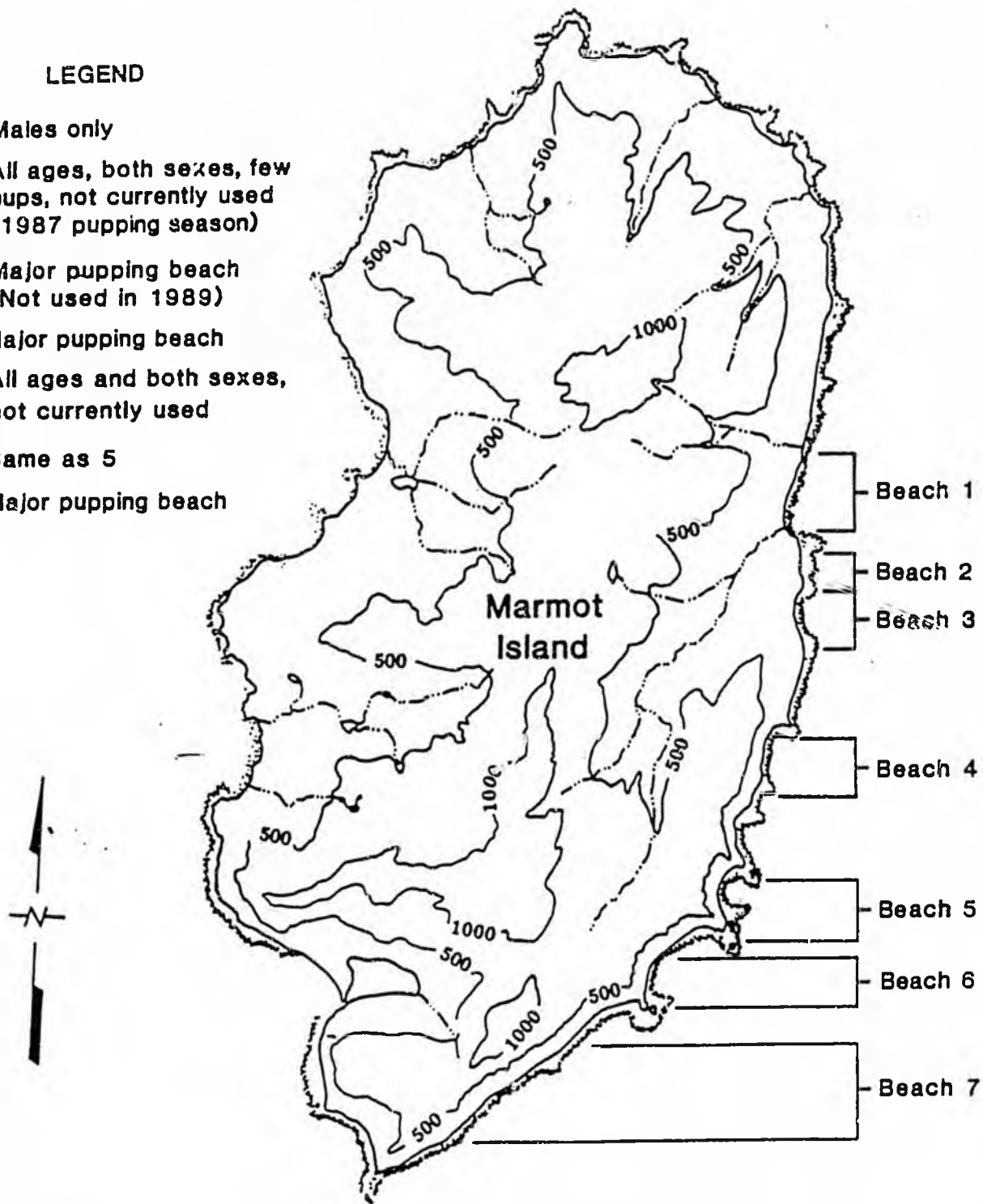


Proposed
Marmot Island
Critical Habitat Area
(SB545)

Location of Marmot Island Northern Sea Lion Rookeries

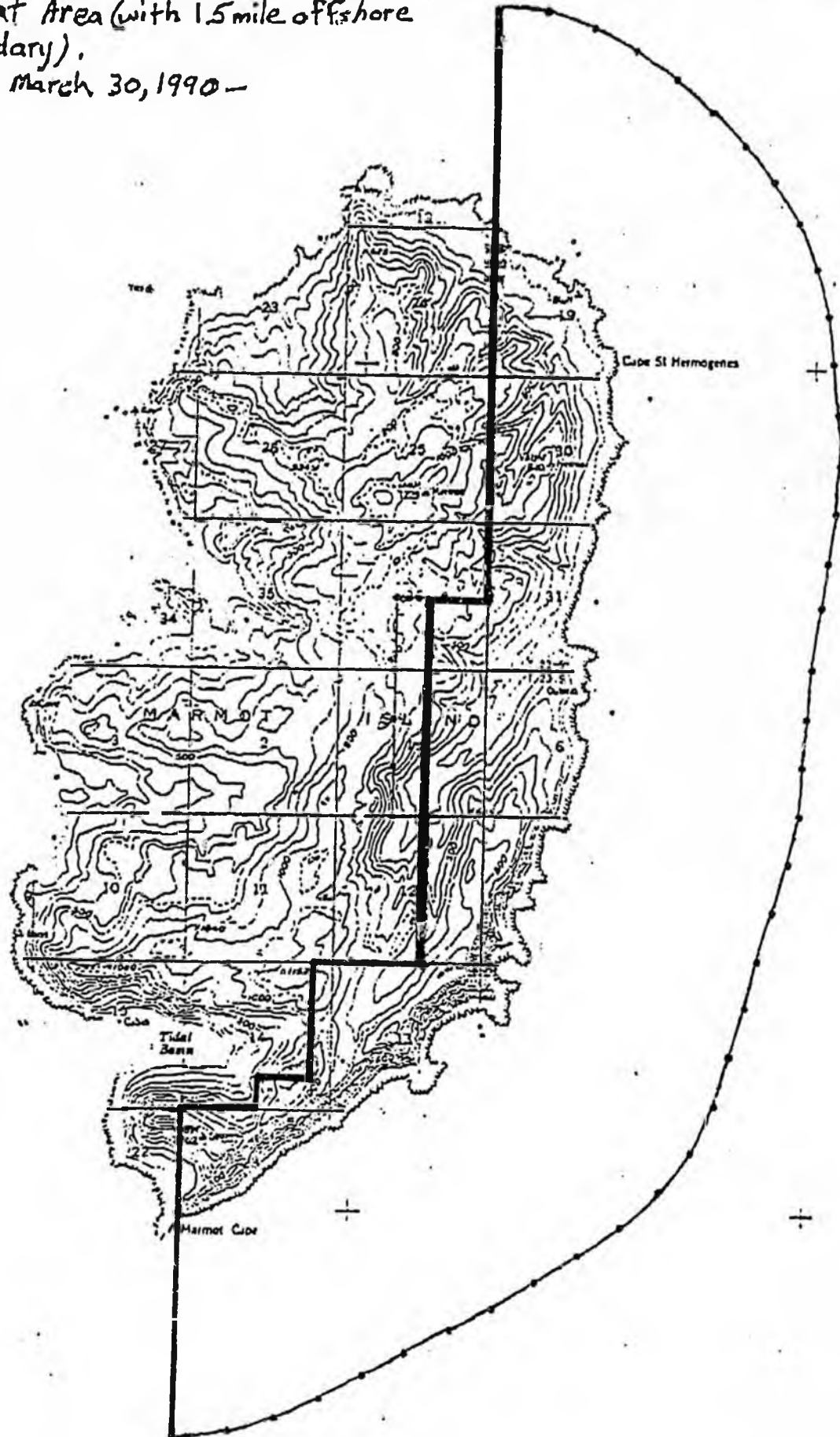
LEGEND

- 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



2

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





SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

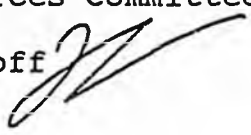
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DURING SESSION:
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DISTRICT N

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

MEMORANDUM

TO: Senator Bettye Fahrenkamp
Chair - Senate Resources Committee

FROM: Senator Fred F. Zharoff 

DATE: April 17, 1990

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

SB 545 establishes a critical habitat area on the east side of Marmot Island, which is 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. Map of the proposed Marmot Island Critical Habitat Area.
3. Map of the Marmot Island sea lion rookeries.
4. Map showing Marmot Island in relation to Kodiak Island and the Gulf of Alaska.
5. News release from the National Marine Fisheries Service.

1



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

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

DURING SESSION:

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DISTRICT N

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SECTIONAL ANALYSIS

Senate Bill No. 545

"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.

SECTION 2

Sunset clause. The critical habitat area would return to its former status unless action is taken by the legislature to continue it.

SECTION 3

Immediate effective date.

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 inadvertently 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.

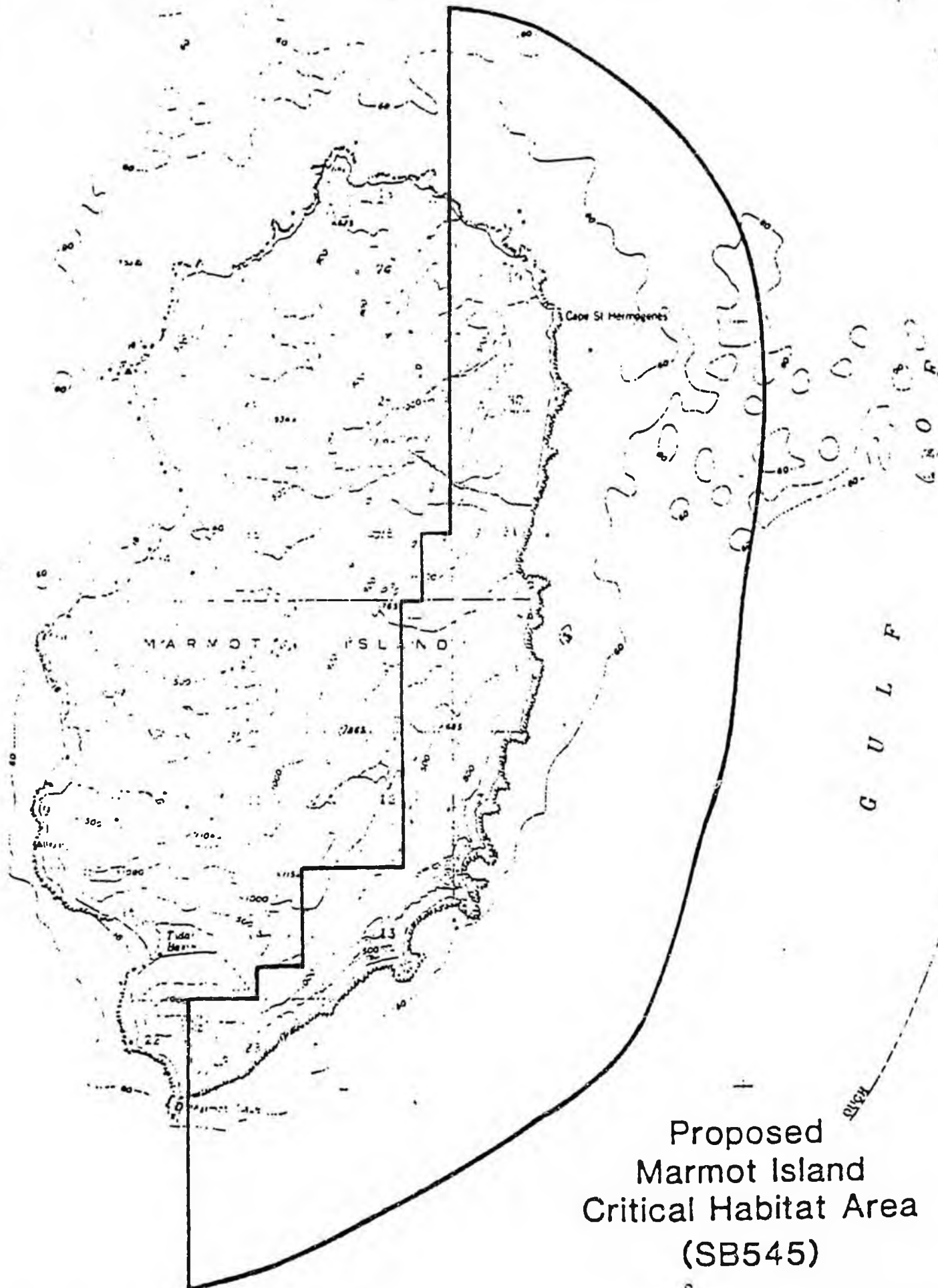
Amend AS 16.20.630(c) as follows:

- (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.



Proposed
Marmot Island
Critical Habitat Area
(SB545)

MEMORANDUM
DEPARTMENT OF NATURAL RESOURCES

State of Alaska
DIVISION OF LAND & WATER MANAGEMENT

TO: Distribution

DATE: January 26, 1990

FILE NO:

TELEPHONE NO.: 762-2253

FROM: Gary Gustafson
Director



SUBJECT: Proposed Marmot Island
Special Use Area
Designation

AGENCY REVIEW NOTICE

The Division of Land and Water Management is proposing to establish a Special Use Area for the protection of known sea lion concentrated haul out and rookery habitat on Marmot Island. A copy of the proposed Special Use Area designation is enclosed for your review. This final draft is the culmination of the original draft proposal dated October 26, 1989, and subsequent comments, inter and intra agency meetings and memos.

Considerable agency discussion has occurred on the location and limits of the north boundary of the special use area to control access to and on the beaches. I have no doubt that implementing the prohibition on all motorized vehicles and recreational mining coupled with a mineral closing order on the beaches, will control access.

As requested, please review the enclosed proposal and submit your comments by February 28, 1990. The lack of a response will be considered as no objection to the proposed Special Use Area on Marmot Island.

If you have any questions, please contact Greg Curney at 762-2249.

GG:BS:ref
c:agrevnot.mem

Attachment

DISTRIBUTION:

Linda Freed, Kodiak Island Borough
San Gesko, Manager, City of Kodiak
Koniag, Inc., Kodiak
Kodiak Area Native Association
Lance Trasky, ADF&G, Habitat Division
Lou Pamplin, ADF&G, Wildlife Conservation Division
Pat Cyr, Dept. of Environmental Conservation
Jerry Gallagher, DNR, Div. of Mining
Bob Dick and Dave Wallingford, DNR, Div. of Forestry
Frank Mielke, DNR, Div. of Agriculture
Al Meiners, DNR, Div. of Parks and Outdoor Recreation
Brad Smith, National Marine Fisheries

**DESIGNATION OF SPECIAL USE AREA
FOR
MARMOT ISLAND
JANUARY 24, 1990
ADL 225034**

Pursuant to 11 AAC 96.010 (2) and 11 AAC 96.010 (3)(b) of the Miscellaneous Land Use Regulations, the south and central portions of Marmot Island east of the ridge line (see maps, Figures 1 and 2, and legal description) is designated as a Special Use Area. This document delineates activities which are prohibited or restricted, subject to valid existing rights. This area will be managed by the Division of Land and Water Management of the Department of Natural Resources in accord with the purposes outlined below.

PURPOSE

The primary purposes of this Special Use Area are to minimize human disturbance of the Steller sea lions, which use the eastern beaches of Marmot Island, and to protect and preserve this important sea lion habitat.

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 & Game (ADF&G) and the National Marine Fisheries Service (NMFS). The number of pups born on Marmot Island has decreased by 50 percent since the 1970s. The number of animals using the beaches has been declining steadily (see Figure 3). Overall, the Alaska population of sea lions is only about half as large as it was in the 1950s and 1960s. NMFS has recommended classifying Steller sea lions as depleted under terms of the Marine Mammal Protection Act. They are also considering listing Steller sea lions as threatened or endangered under the provisions of the Endangered Species Act.

Harassment or unauthorized disturbance of marine mammals is prohibited by the Marine Mammal Protection Act. Human disturbance of the rookeries could cause Steller sea lions to leave the beaches and accelerate reproduction declines. Separation of pups from their mothers increases stress on and mortality of pups. ADF&G believes that this pattern will accelerate the population decline.

ALLOWABLE ACTIVITIES

Activities generally allowed on state land under 11 AAC 96.010(3)(b) and authorized under permit or lease will continue to be allowed, with the following exceptions. The primary criteria for evaluating the appropriateness of proposed activities will be compatibility with sea lion use of the Marmot Island area.

1. **Ground Transportation.** All motor vehicle ground transportation such as 4-wheel drive vehicles, snowmachines and all terrain vehicles is prohibited from the toe of the bluff seaward within the boundaries of this designated Special Use Area. The use of

motor vehicles in the balance of the Special Use Area. Sea lion public viewing, timber harvest and mining purposes may not occur without written authorization from the Division of Land and Water Management. Authorization may be granted only after consultation with the Department of Fish and Game.

2. **Aircraft or Boats.** Aircraft or boat landings and the use of boats, rafts, and canoes are prohibited except in emergency situations and for sea lion public viewing and scientific/management purposes. The use of aircraft or boats for sea lion public viewing and scientific and/or management purposes, may not occur without written authorization from the Division of Land and Water Management. Authorization may be granted only after consultation with the Department of Fish and Game.
3. **Access Development.** Road construction, airstrip construction, trail construction and brushing of trails are prohibited except for mining, timber harvest, and public sea lion viewing. Access for mining, timber harvest and public viewing purposes may not occur without written authorization from the Division of Land and Water Management. Authorization may be granted only after consultation with the Department of Fish and Game.
4. **Camping.** Overnight camping is prohibited in the special use area.
5. **Domestic Animals.** Domestic animals are prohibited within the special use area.
6. **Permits and Leases for Facilities.** No permits for temporary facilities or leases for permanent facilities shall be authorized except to facilitate public viewing or for sea lion management purposes, e.g., ADF&G's cabins which are used as a field base for research and observation.
7. **Public Viewing.** There shall be no development for public viewing of sea lions unless a full time state and/or federal on-site monitoring program is implemented which has adequate funding and planning to prevent disturbance to the sea lions.
8. **Timber Harvest.** Timber harvest will be governed by the Best Interest Finding Decision of the Division of Forestry, dated March 29, 1989. This decision states in part that, ". . . the Division [Forestry] will defer harvest and other forest management options on Marmot Island." The Division of Forestry has further agreed to reconsider timber harvest and other forest management options on Marmot Island, only at five-year intervals from the date of the Decision.
9. **Mining.** The beaches to the toe of the slope will be closed to mineral entry and the uplands will continue to remain open to mineral location under leasehold location.
10. **Recreational Mining.** The beaches to the toe of the slope will be closed to recreational mining; the uplands will continue to be open for recreational mining.
11. **Material Sales.** The entire Special Use Area will be closed to issuance of material sale contracts.

FAA AND U.S. COAST GUARD ADVISORY

The Division of Land and Water Management will ask the Federal Aviation Administration to advise pilots that if travel near Marmot Island Special Use Area is necessary, an altitude of 1,000 feet in an aircraft should be maintained. Likewise, the Division of Land and Water Management will notify the U.S. Coast Guard and request issuance of a notice to mariners to advise captains of vessels to maintain a minimum distance of one-half mile from the shores of Marmot Island.

PERMIT AUTHORIZATION PROCESS

Permits or authorizations for allowed uses will be issued by the Division of Land and Water Management in consultation with the Alaska Department of Fish and Game.

REVIEW OF SPECIAL USE AREA DESIGNATION

The Marmot Island Special Use Area designation will be reviewed every five years to see if conditions have changed which may warrant changes in the allowable activities and/or area boundaries.

LEGAL DESCRIPTION

The following state-owned lands and water to include tide and submerged lands within the following described area (see Figure 1) is established as the Marmot Island Special Use Area subject to valid existing rights.

Township 22 South, Range 15 West, Seward Meridian
Section 31: All.

Township 23 South, Range 15 West, Seward Meridian
Section 6: All.
Section 7: All.
Section 18: All.

Township 22 South, Range 16 West, Seward Meridian
Section 36: E $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$.

Township 23 South, Range 16 West, Seward Meridian
Section 1: E $\frac{1}{2}$; E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$.
Section 11: E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$.
Section 12: All.
Section 13: All.
Section 14: E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.
Section 23: All.
Section 24: All.

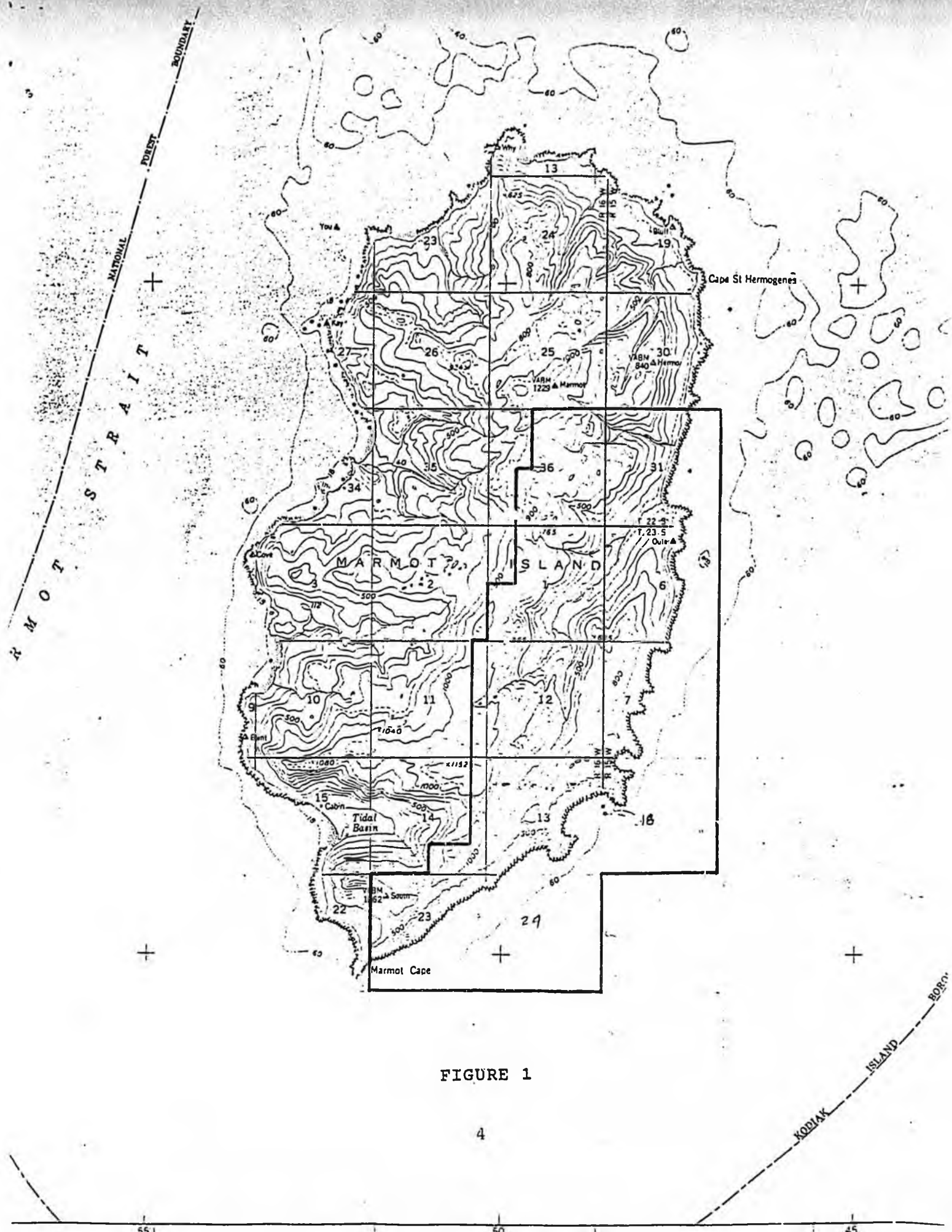


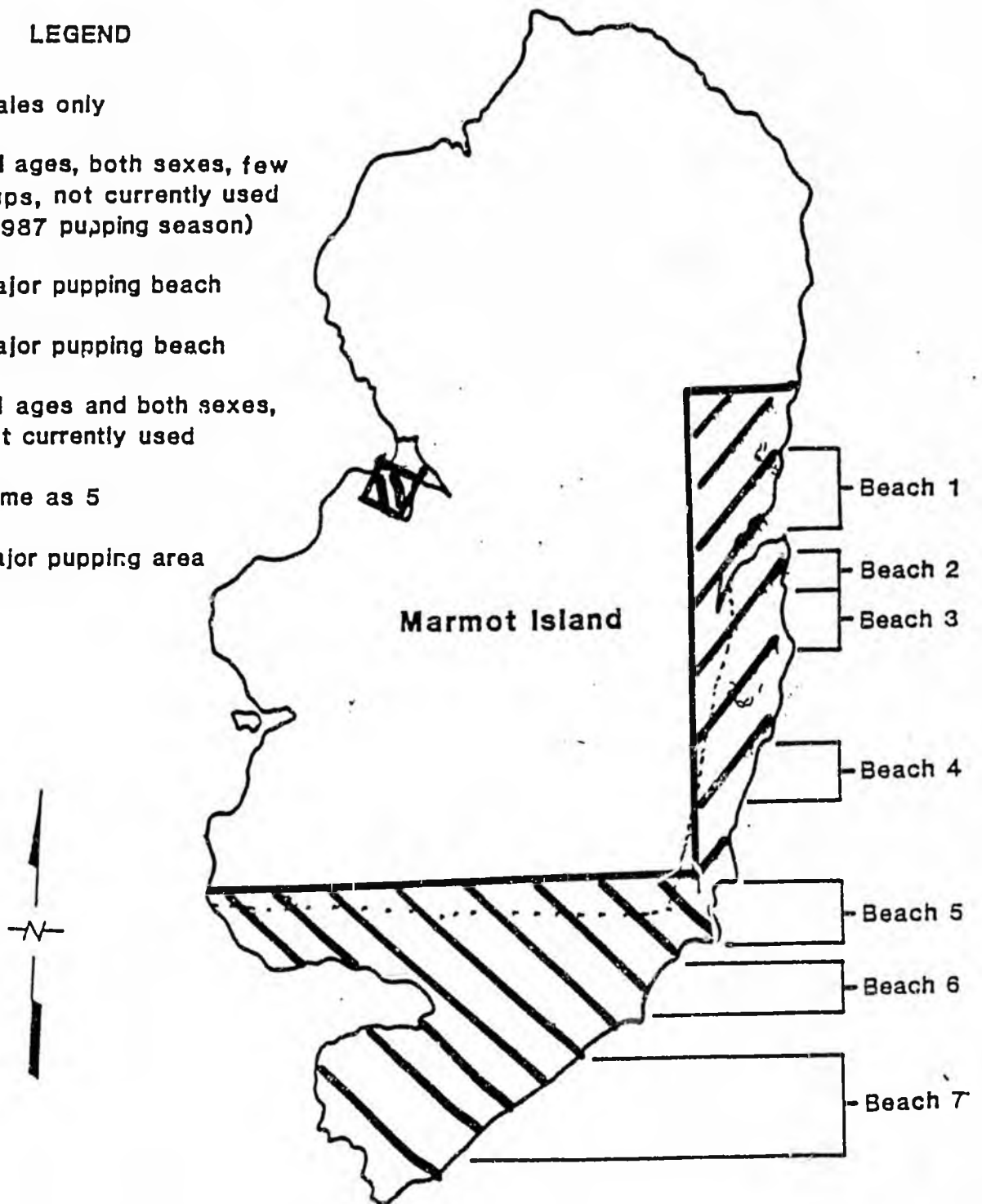
FIGURE 1

Figure 2

Location of Marmot Island Northern Sea Lion Rookeries

LEGEND

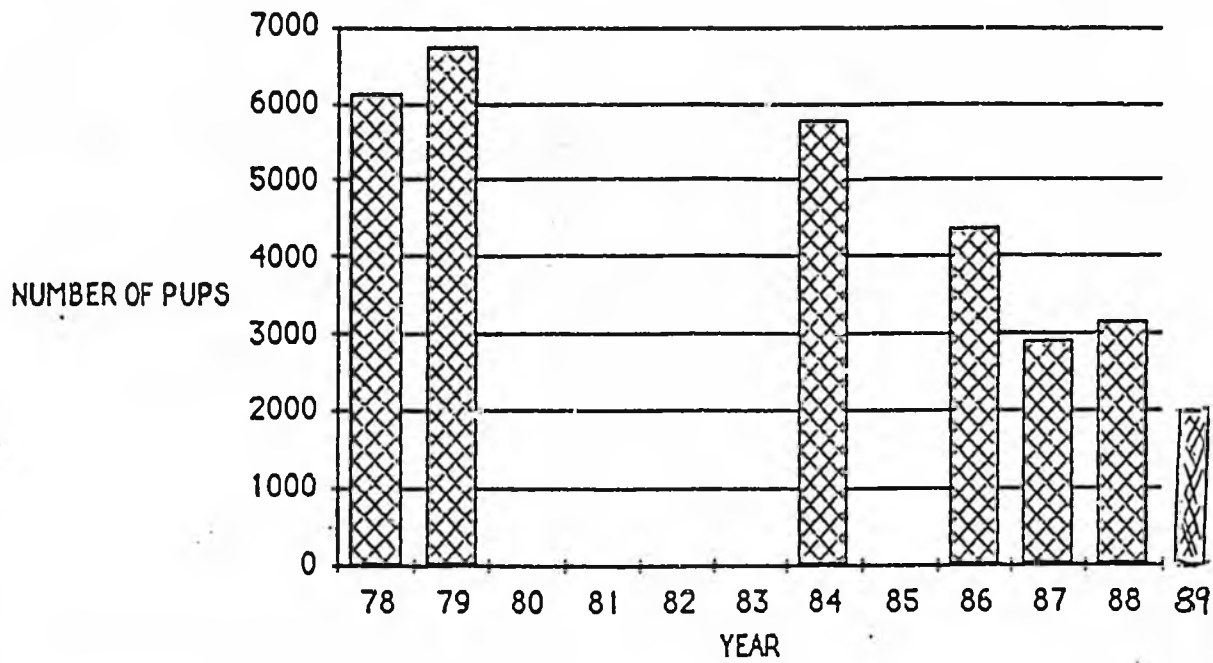
- Beach 1. Males only
- Beach 2. All ages, both sexes, few pups, not currently used (1987 pupping season)
- Beach 3. Major pupping beach
- Beach 4. Major pupping beach
- Beach 5. All ages and both sexes, not currently used
- Beach 6. Same as 5
- Beach 7. Major pupping area



Obtained from Alaska Department of Fish and Game

Figure 3

MARMOT ISLAND PUP COUNTS 1978-1988, 1989



1989 counts -- approximately 2,000

Prepared by ADF&G based on data from the
National Marine Fisheries Service.
J. H. Westlund

DESIGNATION OF MARMOT ISLAND SPECIAL USE LANDS
ADL 225034

Effective Date _____

Pursuant to 11 AAC 96.010(2) and 11 AAC 96.010(3)(b), the lands shown on the attached map and described herein on Marmot Island are hereby designated as Special Use Lands.

I find that this is consistent with the Department of Natural Resources' management authority and that it is in the best interest of the State.

In ninety (90) days or by written notice of the designation prior to the end of the 90 day period, the activities described herein will be managed according to the terms of this special use area designation.

Gary Gustafson, Director
Division of Land and Water Management

Date

SC8:a:marmot.sua

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- (26) "permit" means burning permit;
- (27) "stabilize" means to make resistant to shifting or erosion by mechanical or other means;
- (28) "state forester" means the state forester or his authorized representative;
- (29) "surface waters" means ponds and lakes greater than 10 acres in size, and streams, creeks, and rivers which are valuable for domestic use, spawning, rearing, or migration of fish, or have value to protect water quality;
- (30) "upstream debris" means slash or debris located 50 feet or less upstream from a culvert or bridge that may reasonably be expected to plug the inlet or damage the structure; and
- (31) "waiver" means a deviation from standards set out in 11 AAC 95.100 — 11 AAC 95.180 which is approved by the state forester with the concurrence of the Department of Fish and Game and the Department of Environmental Conservation. (Eff. 2/15/81, Register 77; am 11/21/82, Register 84)

Authority: AS 41.15.050 AS 41.17.020
 AS 41.15.060 AS 41.17.080
 AS 41.15.090

CHAPTER 96. MISCELLANEOUS LAND USE

Article

- 1. Provisions for General Land Use Activity (11 AAC 96.010 — 11 AAC 96.150)
- 2. Additional Provisions for Seismic Exploration and Stratigraphic Tests (11 AAC 96.210 — 11 AAC 96.240)
- 3. General Provisions (11 AAC 96.250)

Article 1. Provisions for General Land Use Activity

Section

- 10. Operations requiring permits
- 20. Equipment use not requiring a permit
- 30. Application
- 40. Term and conditions
- 50. Effective date
- 60. Bonds
- 70. Completion of operations

Section

- 80. Confidential status of information
- 90. Inspection of operation
- 100. Penalty
- 110. Appeals
- 120. Purpose
- 130. Applicability
- 140. General stipulations
- 150. (Repealed)

11 AAC 96.010. OPERATIONS REQUIRING PERMITS. (a) A permit is required for the following activities on state lands:

- (1) activity requiring
 - (A) the use of explosives and explosive devices, except firearms;
 - (B) the use of any equipment not included in the list specified in 11 AAC 96.020;
 - (C) the use of hydraulic prospecting or mining equipment methods;

(D) drilling to a depth in excess of 300 feet, including exploratory drilling or stratigraphic test wells on state land not under oil or gas lease;

(E) geophysical exploration for minerals subject to lease under AS 38.05.135 — AS 38.05.181;

(2) activity that the director determines may result in unnecessary harm to land having special scenic, historic, archaeological, scientific, biological, recreational, or other special resource values; and

(3) activity on land under mineral permit, lease, or claim by a person other than the holder of the permit, lease or claim, or his authorized representative, if the parties cannot agree on what constitutes unnecessary or unreasonable interference as provided in 11 AAC 96.140(11).

X (b) The activities for which a permit is required under (a)(2) of this section will be listed, and the land designated as special use lands on the official records of the division, the records will be available in all state land offices. Activities requiring a permit on land designated as special use land is not a violation of this chapter unless the user has received written notice of the designation or the designation has been effective for 90 days. (Eff. 1/1/70, Register 32; am 3/2/81, Register 77; am 5/8/83, Register 86)

Authority: AS 38.05.020
AS 38.05.035

AS 38.05.180
AS 41.20.020

11 AAC 96.020. EQUIPMENT USE NOT REQUIRING A PERMIT. (a) A current list of equipment types the use of which does not require a permit under 11 AAC 96.010(a)(1)(B) will be maintained and available in all state land offices. A permit is required for the use of all equipment types not appearing on this list unless otherwise authorized by the director.

(b) This list will include but is not limited to the following:

(1) light portable field equipment; such as, hand-operated picks, shovels, pans, earth augers and backpack power drills and augers;

(2) vehicles such as snow machines, jeeps, pickups and weasels. Augers and drills may be mounted on such equipment;

(3) airborne equipment;

(4) marine equipment, except equipment which will disturb the submerged land.

(c) This section does not apply to areas designated under 11 AAC 96.010(a)(2). (Eff. 1/1/70, Register 32)

Authority: AS 38.05.020
AS 38.05.035

11 AAC 96.030. APPLICATION. (a) The application for permit must contain the following information in sufficient detail to allow evaluation of the planned activities' effect on the land:

20-0
you

SB 545, relating to establishing the Marmot Island Critical Habitat Area; efd.

Creation of the Marmot Island Critical Habitat Area is in response to a decline in the Steller Sea lion populations. The Steller sea lion rookeries on the island, the largest in Alaska, are in decline according to the Alaska department of Fish and Game and National Marine Fisheries Service. The Steller sea lion is currently on the threatened species list under the federal Endangered Species Act.

Growing concern that more restrictive measures may be imposed upon the fishing industry has prompted establishing this critical habitat area to afford protection of the haulout and pupping areas on the island.

The Senate Resources CS more accurately reflects the area that is inhabited by the Steller Sea Lions.

Page 2, Line 16, adds Steller Sea lions and removes [MARINE MAMMALS AND SEABIRDS]. This more accurately reflects the intention of the bill.

Page 2, Line 23 - 28 Adds language which allows historical, traditional, and public uses to the extent that activities are compatible with the purposes for which the critical habitat area was established.

There is a zero fiscal note ADFG.

6-2401M
Bradley
4/20/90

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, E1/2E1/2L1/2N1/2-
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

1 July 1, 2005.

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