

SBILQ7

SENATE FINANCE COMMITTEE REPORT

DATE: 4/17/92

FURTHER:

DATE TURNED INTO OFFICE: _____

The Finance Committee considered SENATE BILL NO. 127

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

Died in SFC.

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

- do pass
- do not pass
- no recommendation
- individual recommendations

NEW FISCAL NOTES: Dept/Date

- zero fiscal notes _____
- _____
- fiscal notes _____
- _____
- appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

- zero fiscal notes _____
- _____
- fiscal notes _____
- _____

DO PASS:

OTHER RECOMMENDATIONS:

1. _____
Co-Chair: Signature/Recommendation

2. _____
Co-Chair: Signature/Recommendation

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 2/19/91

FURTHER: Finance

Date of 5-Day Notice: March 7, 1991
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: April 16, 1992

Resources Committee considered SB 127

Use of state land.

and recommended:

and a majority of the committee recommends it be replaced with

- replace with _____ CS SB 127 (Res) same title
- attached amendment(s) _____ and do pass new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FN

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) DNR 3/12/91
SR

zero fiscal note(s) DNR 4/16/92
CS

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

[Signature] Elie

[Signature] Zha

[Signature] Ena

[Signature]
Chair: Signature and Recommendation

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 1

Bill Version: SB 127

BILL NC (S) Publish Date: 4-17-92

Revision Date: 12-Mar-91 Department Affected: Natural Resources
 Title: Use of State Land BRU: Management & Administration
 Components: Commissioner's Office
 Sponsor: Senator Frank
 Requestor: Senate Resources COMPONENT SERIAL NO. 423

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	64.6	10.6	10.6	10.6	10.6	10.6
TRAVEL						
CONTRACTUAL	2.0					
SUPPLIES	1.0	0.5	0.5	0.5	0.5	0.5
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	67.6	11.1	11.1	11.1	11.1	11.1

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	67.6	11.1	11.1	11.1	11.1	11.1
FEDERAL FUNDS						
OTHER						
TOTAL	67.6	11.1	11.1	11.1	11.1	11.1

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Carol Wilson Phone: 465-2400
 Division: Commissioner's Office Date: 12-Mar-91

Approved by Commissioner: Harold Heinze Date: 12-Mar-91
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Fiscal Note SB 127, continued.

		FY 92	FY 93
100	Personal Services		
	Land & Water NRO I (non-perm, Range 14A)	\$ 42.6	\$ 3.6
	FY 92 -- for audit of existing mineral order files (approx. 650) and the land base to ensure accurate data entry; for data entry and assembling of data for report (12 months).		
	FY 93 and beyond -- upkeep and coordination (1 mo./yr.).		
	Management Analyst/Programmer III	15.0	0.0
	FY 92 -- for programming support for mineral reports created from computerized data (3 months).		
	NRO II	5.0	5.0
	FY 92 and beyond -- for geographic mapping of data (1 mo.)		
	Mining Document Processor	2.0	2.
	FY 92 and beyond -- compiling mineral leasing info. (Range 8, 3 weeks)		
300	Contractual Management -- DOA Chargeback	2.0	0.0
400	Supplies Management/L&W -- Plotter and office supplies	1.0	.5
	Total	\$ 67.6	\$ 11.1

In addition, an annual capital appropriation of approximately \$14,170 per township would be needed to develop an assessment of the mineral resources of all areas closed to mining or restricted to mineral leasing each year. We do not have the capability of compiling the "known resource value" of mineral resources in place.

We would need the following to assess the mineral resources of one township:

100	Senior Geologist (1 week)	\$ 1327
	Student Intern (1 week)	423
300	Contract Minerals Economist	7000
	Helicopter (3 days @ 3hrs/day)	5220
400	Materials and supplies	200
	Total	\$14,170

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL 1

Revision Date: 16-Apr-92 Department Affected: Natural Resources
 Title: Use of State Land BRU: Management & Administration
 Components: Commissioner's Office
 Sponsor: Senator Frank
 Requestor: Senate Finance COMPONENT SERIAL NO. 423

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
Funding Source:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
Funding Source:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)
 The required information is currently being compiled voluntarily.

Prepared by: Carol Wilson Phone: 465-2400
 Division: Commissioner's Office Date: 16-Apr-92
 Approved by Commissioner: Harold C. Heinze Date: 16-Apr-92
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB,
 & Impacted Agency(ies).

CS FOR SENATE BILL NO. 127 (RESOURCES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/17/92
Referred: Finance

Sponsor(s): SENATORS FRANK, Fischer, Pearce, Jones, Halford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the definition of multiple use; requiring the commissioner of natural
2 resources to report annually to the legislature on the state land closed to mineral location
3 and mining during the previous year; providing that closures of state land to mineral
4 location and mining by the commissioner of natural resources may be disapproved by the
5 legislature; requiring the commissioner of natural resources to report to the legislature
6 every five years concerning all state land that is withdrawn from mineral location and
7 mining; relating to classifications of state land; and requiring the commissioner of natural
8 resources to report annually to the legislature each closure of state land to multiple
9 purpose use during the previous year."

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

11 * Section 1. AS 38.04.910(5) is amended to read:

12 (5) "multiple use"

1 (A) means the management of state land and its various resource values
2 so that it is used in the combination that will best meet the present and future needs of
3 the people of Alaska, making the most judicious use of the land for [SOME OR] all of
4 the [THESE] resources or related services over areas large enough to provide sufficient
5 latitude for periodic adjustments in use to conform to changing needs and conditions;

6 (B) [IT] includes

7 (i) [(A)] the use of the [SOME] land for less than all of the
8 resources but does not exclude compatible competing uses; [,] and

9 (ii) [(B)] a combination of balanced and diverse resource
10 uses that takes into account the short-term and long-term needs of present and
11 future generations for renewable and nonrenewable resources, including, but not
12 limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and
13 natural scenic, scientific, and historic values;

14 * Sec. 2. AS 38.05.185 is amended by adding new subsections to read:

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

- 19 (1) the known mineral resource potential of the area;
20 (2) the reason for the closure;
21 (3) the effective date of the closure; and
22 (4) the legal description of the land involved in the closure.

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

28 (f) Every five years, the commissioner shall submit a report to the governor and the
29 legislature concerning state land that is at that time withdrawn from mineral location or mining,
30 including state land withdrawn from multiple use by the legislature. The commissioner may
31 make recommendations in each report regarding existing closures of state land.

1 * Sec. 3. AS 38.05.300 is amended to read:

2 Sec. 38.05.300. CLASSIFICATION OF LAND. (a) The commissioner shall, where
3 considered necessary and proper, classify land for surface use [CLASSIFY FOR SURFACE
4 USE LAND IN AREAS CONSIDERED NECESSARY AND PROPER]. This section does not
5 prevent reclassification of land where the public interest warrants reclassification, nor does it
6 preclude multiple [PURPOSE] use of land whenever different uses are compatible. An area of
7 state [STATE] land, water, or land and water [AREA] may not, except by act of the state
8 legislature, be closed to multiple [PURPOSE] use if the area involved contains more than 640
9 acres.

10 (b) Not later than February 1 of each year, the commissioner shall submit a written report
11 to each house of the legislature that [WHICH] describes and shows

12 (1) the location of all classifications of state land made under (a) of this section
13 during the preceding year;

14 (2) each closure of state land to multiple use under (a) of this section during
15 the preceding year.

16 * Sec. 4. Notwithstanding the five year interval required under AS 38.05.185(f), as enacted by sec. 2
17 of this Act, the first report to the governor and legislature under that subsection shall be delivered to the
18 legislature by the 10th legislative day of the first regular session of the legislature that occurs more than
19 two years after the effective date of this Act.

SENATE BILL NO. 127

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS FRANK, Fischer, Pearce, Jones, Halford

Introduced: 2/19/91

Referred: Resources and Finance

A BILL

FOR AN ACT ENTITLED

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

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

3 * Section 1. AS 38.04.910(5) is amended to read:

4 (5) "multiple use"

5 (A) means the management of state land and its various resource values
 6 so that it is used in the combination that will best meet the present and future needs of
 7 the people of Alaska, making the most judicious use of the land for [SOME OR] all of
 8 the [THESE] resources or related services over areas large enough to provide sufficient
 9 latitude for periodic adjustments in use to conform to changing needs and conditions;

10 (B) [IT] includes

11 (i) [(A)] the use of the [SOME] land for less than all of the
 12 resources but does not exclude compatible competing uses; [,] and

13 (ii) [(B)] a combination of balanced and diverse resource
 14 uses that takes into account the short-term and long-term needs of present and

1 future generations for renewable and nonrenewable resources, including, but not
2 limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and
3 natural scenic, scientific, and historic values;

4 * Sec. 2. AS 38.05.185 is amended by adding new subsections to read:

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

- 9 (1) the known or estimated resource values of the area;
10 (2) the reason for the closure;
11 (3) the effective date of the closure; and
12 (4) the legal description of the land involved in the closure.

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

18 (f) Each report prepared under (d) of this section that reports on an area of more than
19 5,120 acres must include a mineral assessment report for the area.

20 (g) Every five years, the commissioner shall submit a report to the governor and the
21 legislature concerning state land that is at that time withdrawn from mineral location or mining,
22 including state land withdrawn from multiple use by the legislature. The commissioner may
23 make recommendations in each report regarding existing closures of state land.

24 * Sec. 3. AS 38.05.300 is amended to read:

25 Sec. 38.05.300. CLASSIFICATION OF LAND. (a) The commissioner shall, where
26 considered necessary and proper, classify land for surface use [CLASSIFY FOR SURFACE
27 USE LAND IN AREAS CONSIDERED NECESSARY AND PROPER]. This section does not
28 prevent reclassification of land where the public interest warrants reclassification, nor does it
29 preclude multiple [PURPOSE] use of land whenever different uses are compatible. An area of
30 state [STATE] land, water, or land and water [AREA] may not, except by act of the state
31 legislature, be closed to multiple [PURPOSE] use if the area involved contains more than 640

1 acres.

2 (b) Not later than February 1 of each year, the commissioner shall submit a written report
3 to each house of the legislature that [WHICH] describes and shows

4 (1) the location of all classifications of state land made under (a) of this section
5 during the preceding year;

6 (2) each closure of state land to multiple use under (a) of this section during
7 the preceding year.

8 * Sec. 4. Notwithstanding the five year interval required under AS 38.05.185(g), as enacted by sec. 2
9 of this Act, the first report to the governor and legislature under that subsection shall be delivered to the
10 legislature within the first 10 days after the convening of the legislature that occurs more than two years
11 after the effective date of this Act.

ALASKA STATE LEGISLATURE
SENATE BILL NO. 127

HISTORY IN THE SENATE

1991
7/21
1992
4/17

Read first time and referred to:
Resources & Finance

Res RPT() CS 4 DP ___ NR ___ DNP ___ AM
New Title ___ Same Title ___ Previous FN ___
1 FN 1 OFN To 300

___ RPT(___) CS ___ DP ___ NR ___ DNP ___ AM
New Title ___ Same Title ___ Previous FN ___
___ FN ___ OFN To ___

___ RPT(___) CS ___ DP ___ NR ___ DNP ___ AM
New Title ___ Same Title ___ Previous FN ___
___ FN ___ OFN To ___

___ Rules Calendar(___) CS ___ AM ___ Other ___
New Title ___ Same Title ___ Previous FN ___
___ FN ___ OFN

Read second time

___ CS Adopted (___) ___ New Title ___
___ Amended ___ Advanced

Read third time

___ Letter of Intent adopted
___ Return to second for specific amendment

PASSED EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

Reconsideration
Reconsideration not taken up

PASSED EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

Reported correctly engrossed
Signed by President, to House

Secretary of the Senate

HISTORY IN THE HOUSE

19

Read first time and referred to:

___ RPT CS() ___ New Title
___ DP ___ DNP ___ NR ___ AM
___ FN ___ OFN ___ Previous FN

___ RPT CS() ___ New Title
___ DP ___ DNP ___ NR ___ AM
___ FN ___ OFN ___ Previous FN

___ RPT CS() ___ New Title
___ DP ___ DNP ___ NR ___ AM
___ FN ___ OFN ___ Previous FN

Read second time
CS() Adopted

Amended

Advanced

Read third time

Return to second for specific amendment

PASSED EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

___ Intent adopted

Reconsideration
Reconsideration not taken up

PASSED ON RECON. EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

___ Intent adopted

Reported correctly engrossed, signed by the Speaker
and returned to the Senate

Chief Clerk of the House

SENATE-HOUSE HISTORY Continued

19	<p>Received from the House Version: _____</p> <p>Concur in House amendment Y ___ N ___ E ___ A ___ _____ Efd same or Y ___ N ___ E ___ A ___</p> <p>Failed to concur in House amendment, ask House recede Y ___ N ___ E ___ A ___</p> <p>House failed to / receded from amendment Y ___ N ___ E ___ A ___</p> <p>CC appointed by Senate _____ Chair _____</p> <p>CC appointed by House _____ Chair _____</p> <p>(S) Granted Limited Powers of Free Conference</p> <p>(H) Granted Limited Powers of Free Conference</p>
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19	<p>(S) Adopted CC Rpt _____ Y ___ N ___ E ___ A ___ _____ Efd same or Y ___ N ___ E ___ A ___</p> <p>(H) Adopted CC Rpt _____ Y ___ N ___ E ___ A ___ _____ Efd same or Y ___ N ___ E ___ A ___</p> <p>To enrolling Received from enrolling Sent to Governor</p> <p>_____ By Governor</p> <p>Chapter Number _____</p> <p>Filed with Lieutenant Governor</p>
----	---

STEVE FRANK

119 N. Cushman, Rm. 213
Fairbanks, Alaska 99701
(907) 452-3421

Alaska State Legislature



Senate

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3709
Capitol Rm. 417

TO: Senator Pat Pourchot, Co-Chairman
Senate Finance Committee

FROM: Senator Steve Frank

RE: CSSB 127 (Res) - (definition of multiple use, reporting requirements of DNR regarding mineral closures and land closed to multiple use)

DATE: April 29, 1992

I would like to request that a hearing be scheduled for Senate Bill 127 in the Senate Finance Committee at your earliest convenience.

Senate Bill 127 is modeled after legislation that originated during the 15th Legislature and was repeated during the 16th Legislature. In each case the bills were approved by the full Senate but died in the House. The provisions of the bill were recommended by the Alaska Minerals Commission in their first report to the legislature and governor in 1987.

The first portion of the bill deals with the definition of multiple use in Title 38 (Public Lands). It would re-define the term "multiple use" so that all achievable uses in an area are given equal consideration in the planning process. Based on the current technical definition of multiple use, the department may conduct land use plans classifying an area for only *some* of the achievable uses if they choose. For instance, an area may be classified for only two uses and this technically meets the definition of multiple use.

The second portion of the bill deals with reporting requirements of the Department of Natural Resources. It requires the agency to annually report

(1) to the legislature and the governor on lands closed to mineral entry during the preceding year, and

(2) to the legislature on lands closed to multiple use during the preceding year.

SB 127 requires DNR to report to the legislature and governor every five years on lands that are, at the time of reporting, closed to mineral entry or have been withdrawn from multiple use by the legislature. There is also a provision in the bill giving the legislature the authority to disapprove mineral location and mining closures. They may also make recommendations to the commissioner, by resolution, on future management of the area.

DEPARTMENT OF FISH AND GAME POSITION PAPER

Bill No: Senate Bill 127

Sponsor: Senator Frank

Division: Habitat

Bill Title: An Act relating to the use of state land

Department Position: The Department of Fish and Game is opposed to this bill.

The bill can be read to amend 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, including compatible competing uses; thereby negating current statutory discretion to manage lands for a predominant use or for less than all compatible competing uses. It is unclear whether, for practical purposes, SB 127 would actually result in a change in the definition of multiple use. If it does not, then the bill is likely to create expectations among its proponents that state agencies with land management responsibilities may have difficulty living up to. If the bill actually would change the operable definition of multiple use, then there are a number of resource management problems that would result. These are the subject of the balance of this analysis. The language in SB 127 is unclear and thus may limit the Department of Natural Resource's (DNR) administrative flexibility to classify and actively manage state lands for the public benefit. Section 1 may remove the DNR's authority to classify or manage state lands for a predominant use, for less than all compatible competing uses, or to selectively manage lands for a preferential beneficial use. (Continued on attached pages)

Commissioner's Signature

Don Somerville

Date

3/13/91

FISH & GAME
Position Paper & Fiscal Note

Senate Bill 127 Continuation of Department Position Paper

The bill also requires preparation of an annual legislative report on lands closed to mineral location and mining, and expands the annual legislative reporting requirements of AS 38.05.300(b) relating to state lands and waters administratively closed to multiple use. Section 1 may also limit or condition the Department of Fish and Game's management and permitting authorities within State Game Refuges, State Game Sanctuaries, and State Critical Habitat Areas established under AS 16.20. These areas have been legislatively protected in recognition of their outstanding natural habitat and associated fish and wildlife resource values. Section 3 appears to delete the requirement that state lands be classified for surface use and grants the Commissioner of DNR discretion to classify lands where considered necessary and proper. We are further concerned that because the DNR's statewide land use, planning, classification and disposal process has already authorized the use of state land for some or less than all potential uses, that SB 127 may be interpreted as implicitly nullifying the DNR's existing land use plans. This legal uncertainty will adversely affect both private and public users of state land.

The definition of multiple use in SB 127 emphasizes that the land be used for "all" rather than "some or all" resources. Although SB 127'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 users is sufficiently great to result in incompatibility. 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. The burden of proof for determinations of incompatibility would thus be shifted to the state and 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 and natural resource base.

Under a worst case judicial interpretation, SB 127's multiple use definition could potentially preclude administrative land sales, agricultural disposals, mineral closing orders, grazing leases, material sales, timber sales, coal leases, and right-of-way leases (e.g., oil and gas pipelines) unless specifically authorized by legislative action. For example, under SB 127's multiple use definition, DNR might be unable to administratively classify lands as a transportation corridor or grant a right-of-way lease for a gas pipeline without also allowing "compatible" agricultural use of

the surface land overlying the buried gas pipeline. Although the state's existing common carrier pipeline lessees (and presumably new oil and gas pipeline owners as well) generally oppose authorization of competing surface uses within the right-of-way, agricultural use of surface lands over buried gas pipelines is a common Lower-48 practice. Absent legislative classification, DNR would be unable to establish clear and convincing evidence for incompatibility. In short, SB 127's multiple use definition would largely shift responsibility for determining noncompatibility from the administrative to the legislative branch of government.

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 in a sustained yield principle, subject to preferences among beneficial uses (emphasis added)." The existing definition 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.

It should also be noted that this provision has a long history in federal law. In fact, the entire portion of existing AS 38.04.910 that SB 127 proposes to amend is practically identical to language in the federal Multiple Use-Sustained Yield Act of June 12, 1960 (Enclosure 1). Later federal legislation (Federal Land Policy and Management Act of 1976, Enclosure 1) has retained the emphasis of the Multiple Use-Sustained Yield Act and has added reference to specific resource uses.

For practical purposes, every land management decision that DNR makes and which potentially affects fish and wildlife habitat involves the need for adequate consideration of both those fish and wildlife values that are readily quantifiable (such as ex-vessel and first wholesale values of commercial fisheries) and the myriad of values that are more difficult to quantify and less tangible. While it is not possible to determine how past resource tradeoff decisions may have been made differently had the changes proposed in SB 127 been in place, one can conclude that the greater the emphasis that the state's multiple use statute places on considering the less tangible values, the greater will be the assurances that the beneficial use of those resource will continue to be available for present and future generations.

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

March 12, 1991

The Honorable Lloyd Jones, Chair
Senate Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Jones:

Subject: Senate Bill 127, which relates to the use of state land.

Position: The Department does not object to the intent of this bill, that areas closed to mining or restricted to mineral leasing should be documented on an annual basis, and summarized every five years. The Department can readily report the legal description of the areas involved, and the reasons for and dates of the closures. When an area is administratively closed to mining, the required written finding describes why closing it to mining is in the best interest of the state. These findings can be forwarded to the Legislature each year. Requiring mineral valuations or assessments for administrative mineral closures is not necessary. The Department manages lands for multiple use and only closes land to a use if doing so is in the public interest.

Land valuation exercises associated with the mental health trust land issue have demonstrated that determining the value of mineral resources in place is extremely difficult if not impossible. Our fiscal note shows only the cost of a mineral assessment per township, it does not address mineral valuation.

Background: There are two types of mineral closures on state lands:

Administrative closures are made by the Commissioner of DNR, in response to a specific situation and generally on very limited acreage. Administrative closures are documented by "best interest" findings which analyze all the uses of an area and define the public benefit of limiting some options. Closures and restrictions to mineral leasing can be reversed by future findings, as circumstances change.

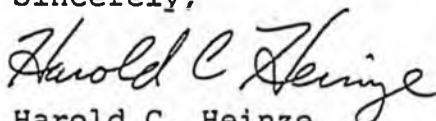
Legislatively designated areas are created by the Legislature and are permanent. Multiple use options can be restricted by the designating statute and carried out by DNR through the land use planning process. Major acreages are often affected by legislative designations. (For example, the proposed Susitna Valley Remote Recreation Area affects over 2 million acres of state land.)

This bill would require the Department to report to the Governor and the Legislature each year concerning the state land closed to

mineral location and mining during the previous calendar year. The report would include a legal description of the closed land and its known or estimated resource value. If the amount of land closed during the year exceeds 5,120 acres, a mineral assessment of the area must be included in the report. Every five years, the Department would be required to report on the total amount of state land withdrawn from multiple use at that time, by administrative as well as legislative actions.

Recommendation: We suggest amending the bill to require valuing or assessing mineral resources only when a new legislative designation is made.

Sincerely,



Harold C. Heinze
Commissioner

cc: Committee Members
Senator Frank
Senator Fischer
Senator Pearce
Bruce Kendal?, Legislative Liaison, Office of the Governor

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING

P.O. BOX 107016
ANCHORAGE, ALASKA 99510-7016
PHONE: (907) 762-2170

3700 AIRPORT WAY
FAIRBANKS, ALASKA 99709
PHONE: (907) 451-2790

March 12, 1991

Ms. Teresa Sager-Stancliff
Office of Senator Steve Frank
Mail Stop "V"
Juneau, AK 99811

RE: SB 127

Attached as per your request are examples of conflicts resulting from unequal consideration of multiple uses of state land. Specifically identified are cases where mining was impacted by other land uses.

I hope this is useful to you.

Sincerely,



Samuel M. Dunaway, Jr.
Acting Director

Attached

cc: Cindy Roberts

Examples of Conflicts
(DNR Div. of Mining)

Areas where mineral entry on multiple use lands has been closed or restricted by land classification or legislative action.

1. **Hatcher Pass Area, Willow Creek Mining District**
 - a. Reed Lakes area has moderate to high mineral potential for vein and porphyry copper-gold deposits and is closed to mineral entry. Recreational use has led to reclassification of state lands. Roads built by mineral development has allowed access for recreation use forcing mineral development out. The area has been closed to new mineral resource development under the Hatcher Pass Management Plan.
2. **Lake Creek, Susitna Recreation Rivers Plan, Yentna Mining District**
 - a. Lake Creek was closed to mineral entry by the Susitna Area Plan. Lake Creek drains the Fairview Mtn.-Collinsville area, comprising the western portion of the Yentna Mining District. Recreational use is slowly forcing mining activities in the Yentna District to be curtailed and stopped. Lake Creek is considered to have good potential for the development of placer gold and pgm metals. A small portion of Lake Creek may be reopened to mineral entry under the Rec Rivers Management Plan.
3. **Tugidak Island, Critical Habitat**
 - a. Beach placer gold deposits have been identified on Tugidak Island for many years. Numerous proposals to mine the southern beaches have been held in limbo because of seal haulout areas on the north and east sides of the island. The legislature in the late 1980's created the Tugidak Island Critical Habitat, which has made development of beach placer gold very difficult. The Island has been open to mineral entry but will soon be partially closed.
4. **Yentna Mining District, Kahiltna River, Cache Creek, and Peters Creek, Susitna Area Plan.**
 - a. The areas around these drainages have been mined since the early 1900's. Roads built into the mining district for access for mining are now being used by recreational users and hunters creating conflicts between various user groups, area residents, and placer miners. Many feel that pressure from recreational users will force mining out of the area. SB 124 may directly affect this mining district and force the closure of existing mines. Creation of Denali State Park closed the eastern part of the Yentna Mining District to mineral location.

DRAFT

State Lands Withdrawn
from Mineral Entry
by
Legislation or Administrative Action

A Report to the Division of Mining
Department of Natural Resources

ASR 90-0018

C. C. Hawley

April 30, 1990

Hawley Resource Group, Inc.
Anchorage, Alaska

#300, 941 E. Dowling
Fx 562-7284

Hawley Report Summary

procedural difficulties in first, not quantifying buffer procedures that will be used, and second, in not rectifying text and maps so that each indicates the same acreage. According to the plats, the acreage opened is about 28,000 not 42,000 acres. This type of action sets up a "Tract Book" problem, where text not book should rule.

Perhaps this issue could be resolved by using a buffer of mineral leasehold locations. At the least a time should be specified for surveying and correcting the text and graphic records.

CONCLUSIONS AND RECOMMENDATIONS

A substantial amount, about 8.5 million acres or about 10 percent of the state's land has been closed to mineral location. Only about 3 million acres of this total are closed by legislation. Because of loose definitions and problems raised by apparent incompatibility of uses, there appears to be potential to administratively close extensive acreage. Because of this it is timely to review 38.05.300 and establish guidelines for closures.

Closures should be reviewed periodically both to see if the reason for the closure still exists and also to see if there has been a change in knowledge of resource base that justifies reconsideration.

Although mineral potential is very difficult to assess, nevertheless there are procedures for determining mineral potential, and it is proposed that all large tracts proposed for either legislative or administrative closure be reviewed and, in many cases, studied in the field before an action is taken.

ACKNOWLEDGEMENTS

Many people in and out of state government furnished information or clarified policy during different administrations. Various parts of the report, including the interpretation of 38.05.300 were discussed with former Commissioners of Natural Resources Phil Holdsworth, C. F. Herbert, John Katz, and Esther Wunnicke, named chronologically in their service to the state.

Larry Bullis in the Department of Land and Waters keeps track of MCO-MOO (orders) for the Southcentral District and coordinates the sequence of numbers statewide. Larry has maintained these records for many years, and was always helpful in understanding the records. Bob Craig in the northcentral office helped on the northern land orders and specifically about the confused status of pipeline acreage. The office of Status Graphics in DNR in Anchorage also tracks orders statewide and Bud May, who has recently retired, was knowledgeable and helpful about orders in his section. John Wiles of the Division of Parks and Bob Stuvic

of Division of Mining furnished information used in the report.

REFERENCES CITED

DNR, Division of Land and Water Management (Gary C. Stein and others), 1987, Promised Land: A history of Alaska's Selection of its Congressional Land Grants: Special Publication, DNR, 250 p. issued May 1987

Leshy, John, 1987, The Mining Law; a Study in Perpetual Motion: Resources for the Future, Washington, D. C.

FISCAL NOTE

3-14-91
5 (R3)
FIL

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 127

Revision Date: 3-12-91 Department Affected: Fish and Game
Title: Management and Use of State Land BRU: Habitat
Component: Habitat

Sponsor: Senator Frank

Requestor: _____ COMPONENT SERIAL NO.

	4	8	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: no impact on current year

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Frank Rue, Director Phone: 465-4105
Division: Division of Habitat Date: 3/12/91
Approved by Commissioner: [Signature]
Agency: Department of Fish and Game Date: 3/13/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Outdated 1991 Note

SB 127

4-21-92 (S) (M)

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB 127

Revision Date: 3/12/91

Department Affected: Fish and Game

Title: Management and use of state land

BRU: Habitat

Component: Habitat

Sponsor: Senator Frank

Requestor: Senate Resources
Expenditures/Revenues: (Thousands of Dollars)

COMPONENT SERIAL NO.

4	8	6
---	---	---

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0.0	0.0	0.0	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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Geron Bruce

Phone: 465-4100

Division: Commissioner's Office

Date: 4/16/92

Approved by Commissioner: Sam Lonsdale

Agency: Department of Fish and Game

Date: 4/16/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. OSC., & Impacted Agency(ies).

This F/N did not travel with the bill.