

**S B**

**3 5**

DATE: 1/24/97

FURTHER: Finance

DATE TURNED  
IN TO OFFICE:

2/18/97

Resources Committee considered SENATE BILL NO. 35

Management of parks and recreational areas.

and recommends:

- be replaced with CS FOR SB 35 (RES)
- adopt previous CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:
- same title
  - new title
- House Bill:
- same title
  - technical change
  - new: SCR# \_\_\_\_\_

SIGNING DQ PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Christ Taylor</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>			
<i>John Ferguson</i>	<input checked="" type="checkbox"/>				
<i>Keren D. Deman</i>	<input checked="" type="checkbox"/>				
<i>Linda Green</i>	<input checked="" type="checkbox"/>				
<i>Bob [unclear]</i>	<input checked="" type="checkbox"/>				
<i>Rick [unclear]</i>	<input checked="" type="checkbox"/>	CHAIR:			

FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):\*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill



# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. CSSB 35(RES)

Revision Date: 35400 2/7/97

Dept. Affected: Fish and Game

Title: Management of parks and recreation areas

BRU: Board Services

Component: Board Support

Sponsor: Senator Green

Requester: Senate Resources

COMPONENT SERIAL NO. 482

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0

**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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: Diana Cote  
 Division: Boards Section  
 Approved by Commissioner: Frank Rue  
 Agency: Department of Fish and Game

Phone: 465-6143  
 Date: 2/6/97  
 Date: 2/6/97

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSSB 35(RES)

Revision Date: <u>2/7/97</u>	Dept. Affected: <u>Fish and Game</u>
Title: <u>Management of Parks &amp; Recreational Areas</u>	BRU: <u>Wildlife Conservation</u>
Sponsor: <u>Senator Green</u>	Component: <u>Wildlife Conservation</u>
Requester: <u>Senate Resources</u>	COMPONENT SERIAL NO. <u>473</u>

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES (1024)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost: \$ 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)

Prepared by: Wayne Regelin, Director *WR*  
 Division: Wildlife Conservation  
 Approved by Commissioner: *Geon Bruce for*  
 Agency: Department of Fish and Game

Phone: 464-4190  
 Date: 2/7/97  
 Date: 2/7/97

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# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. CSSB35 (RES)

Revision Date: 19-Feb-97 Dept Affected: Natural Resources  
 Title: An Act restricting the Board of Fisheries, Board of BRU: Resource Development  
Game, ADF&G, and DNR from...regulation [of] traditional access.... Component: Land Development  
 Sponsor: Sen. Green  
 Requestor: Senate Finance Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES (1005)</b>	<b>(1,100.0)</b>	<b>(1,100.0)</b>	<b>(1,100.0)</b>	<b>(1,100.0)</b>	<b>(1,100.0)</b>	<b>(1,100.0)</b>

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Merital Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: \$ none

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)

Analysis assumes that the intent of Sec. 5 is to prevent any restriction or prohibition of access on state public domain land, including land offered for sale, surface lease, material sales, or rights-of-way. "Blanket" easements would be required instead of typical linear easements. Reduction of sale parcels' fair market value is estimated at 50% due to loss of exclusive use rights and perceived loss of privacy. Commercial/industrial lease bids and material sale prices are also projected to be reduced to account for higher insurance premiums charged for unsecured work sites. Projected revenue impact assumes no major new land sale offering to the general public; mostly preference-right sales, sales to current remote parcel lessees, homesitters, and homesteaders, material sales, and leases for commercial/industrial purposes. Also, figures do not attempt to reflect extra liability exposure for the state on land retained in public ownership. Analysis continued...

Prepared by: Jane Angvik, Director *Jane Angvik* Phone: 269-8503  
 Division: Land Date: 19-Feb-97  
 Approved by Commissioner: *David Benson for John Smith* Date: 2-19-97  
 Agency: Natural Resources

Analysis continued...

Sec. 5, added by the Resources Committee, would enact a new AS 38.95.300 forbidding DNR to adopt a regulation that would prohibit or restrict "traditional access" (undefined). As with ADF&G and the boards, a DNR finding of a "compelling reason" may be forwarded as proposed legislation. Because the restriction is in AS 38, it would apply to public domain land management, not just park management. Temporary parkland closures under AS 41.21.020(e), added by Sec. 7 of the bill, would be excepted.

Sec. 5: Statutory intent is not clear. DNR does not adopt regulations prohibiting access to Title 38 land. It is in the business of facilitating access, not precluding it. However, since 1970 it has had regulations requiring a permit to use heavy equipment on state land, which might qualify as a "restriction" of undefined traditional access. Further, those regulations let DNR impose more stringent permit requirements on a site-specific basis. It did this for off-road vehicle use on the North Slope in 1970 (still in effect, and necessary to prevent resource damage on permafrost soils). Other designations since then that may affect "traditional uses" include two at the Poker Flats rocket impact zone to prevent public access during rocket launches; three allow public safety controls at ski area (Hatcher Pass, Thompson Pass, and Alyeska Resort), e.g. during avalanche blasting; another prohibits camping in the Nenana Gorge to control a problem with seasonal Denali Park workers' squatters' camps; another restricts access to a sea-lion rookery at Marmot Island to minimize the threat that the federal government would place the Stellar sea lion on the endangered species list (an action that would have caused great disruption to commercial fisheries). DNR closed road access altogether to two sites in Juneau (at Montana Creek and Eagle River) that were being used for illegal trash dumping, as it was not funded for maintenance and the cleanup costs were becoming overwhelming. And DNR has just been notified it must close access to about 1,000 acres near Gerstle River (Delta) because of the presence of hazardous nerve gas left over from military testing. The bill may intend to invalidate existing restrictions or prevent new ones in equally compelling circumstances.

Allowing DNR to request a legislative closure, months or years later, is no solution. The bill has no exceptions for closures needed to protect public safety or prevent resource damage, just as it has no exceptions for resource development and land disposal purposes. Every land disposal to a municipality or a private owner "restricts" previous public access, unless this bill intends DNR to reserve blanket easements allowing all previous uses to continue. (Even if DNR follows its traditional practice of reserving easements to protect existing trails, being confined to a trail is a "restriction.") On land subject to timber sales, material sales, mineral leases, and other less-than-fee disposals, DNR generally retains public access, but it must be able to allow necessary restrictions. For instance, DNR authorizes timber purchasers to close logging roads during breakup or heavy rain, when travel would damage the road surface, or at the logging site to prevent safety hazards and to protect equipment and cut timber against theft and damage. And it requires logging roads to be blocked and "put to bed" if there is no new operator to assume responsibility for road and culvert maintenance. Gravel pits and rock quarries are operated under similar rules to protect public safety and the gravel purchaser's property rights. Similarly, oil and gas leases are open to public uses that do not unreasonably interfere with the lessees' rights. Lessees are prohibited by their lease terms from blocking public access. However, exceptions are allowed within the immediate vicinity of drill sites and structures. On mining locations, the miner must apply for permission for any closure, and restrictions are authorized only to protect public safety or prevent unreasonable interference with the miner's rights. This bill could force the Usibelli coal mine to let the public drive through its active mining areas, even during blasting operations (a violation of federal law). And it could invalidate Alyeska Pipeline Service Company's authority to restrict public access to its right-of-way lease, forcing removal of the locked gates that keep vehicles off the work pad and pipeline. Who would pay for the liability of allowing the general public, including children, into the midst of industrial operations using heavy equipment? This section could slow or halt resource development on state land.

Restrictions as in the above examples are imposed not by "regulation" but by land use plans, land disposal decisions, forest land use plans for timber sales, oil and gas lease forms, wildfire management plans, etc. However, because "regulation" is so broadly defined in AS 44.62.640, a case can be made that all of these documents are in fact regulations (a suit now before the Supreme Court raises this question). That interpretation would open most of DNR's land management and disposal decisions to the charge that they will restrict "traditional access," giving disposal opponents new ammunition to use in court.

# FISCAL NOTE

STATE OF ALASKA

BILL NO. CSSB 35 (RES)

## 1997 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept Affected: Natural Resources  
 Title: An Act restricting the Board of Fisheries, Board of Game, ADF&G and DNR from...traditional access BRU: Resource Development  
 Component: Mining Development  
 Sponsor: Senator Green  
 Requestor: (S)FIN Component Serial No. 442

Expenditures/Revenues	(Thousands of Dollars)					
	FY98	FY99	FY00	FY01	FY02	FY03
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
	FY98	FY99	FY00	FY01	FY02	FY03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ none

**POSITIONS**

	FY98	FY99	FY00	FY01	FY02	FY03
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)

Under 11 AAC 86.145, a mining operator may restrict public access to a site only with the approval of the Division of Mining and Water Management, and only "to protect public safety" or to "prevent unreasonable interference" with the miner's rights. The proposed law appears to invalidate the ability of the state to allow this restriction to public access. Thus, it could force the Usibelli Coal Mine to let the public drive through its active mining areas, even during blasting operations (a violation of federal law). It might require the operator of Fort Knox to allow snowmobiles, dog mushers, pedestrians, and cars to compete with its 150-ton haul trucks for use of the road. While companies could ask for public access restrictions, the restriction would require legislative approval.

Please see continuation page.

Prepared by: Jules V. Tileston, Director Phone: 269-8600  
 Division: Mining and Water Management Date: 19-Feb-97  
 Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Agency: Natural Resources

Fiscal Note, continued: CSSB 35 (RES)

The bill has little effect on the operations of the Division, but it could have a significant but difficult to calculate cost to mining operators – and thus an affect to the Alaskans employment and income, and to state royalties and rents. The cost to mining operators could increase due to increased insurance costs, increased management costs, decreased efficiency. In addition, the inability to restrict public access to operating mines could decrease the current attractiveness of the state to new mining development.

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. CSSB35(RES)

Revision Date: 19-Feb-97 Dept Affected: Natural Resources  
 Title: An Act restricting the Board of Fishenes, the BRU: Parks & Recreation Management  
Board of Game, the Department of Fish and Game.... Component: Parks Management  
 Sponsor: Senator Green  
 Requestor: (S)FIN Component Serial No. 452

Expenditures/Revenues	(Thousands of Dollars)					
	FY98	FY99	FY00	FY01	FY02	FY03
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES	3.0	1.0	1.0	1.0	1.0	1.0
TRAVEL	8.4	8.4	8.4	8.4	8.4	8.4
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>11.4</b>	<b>9.4</b>	<b>9.4</b>	<b>9.4</b>	<b>9.4</b>	<b>9.4</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF	11.4	9.4	9.4	9.4	9.4	9.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>11.4</b>	<b>9.4</b>	<b>9.4</b>	<b>9.4</b>	<b>9.4</b>	<b>9.4</b>

Estimate of any current year (FY97) cost: \$ none

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)

Personal Services for \$1.0 is needed each year to prepare the report on activities restricting traditional access for traditional recreational activities required for new section 41.21.020(a)(14). An additional \$2.0 is needed the first year to set up a reporting system that is easily tracked and prepared for annual submission to the legislature. No new position will be required for this, the personal services dollars will be used to extend the season of an existing position to prepare the report.

Closures of longer than 90 days would require annual trips to the legislature. We anticipate that up to six bills per session would be needed for construction, wildlife, disaster, public safety, seasonal and resource protection closures. We anticipate travel costs associated with each bill to be \$1.4.

Detailed analysis continued...

Prepared by: Jim Stratton, Director *Jim Stratton* Phone: 269-8700  
 Division: Parks and Outdoor Recreation Date: 19-Feb-97  
 Approved by Commissioner: *Jim Stratton for John Alvo* Date: 2-19-97  
 Agency: Natural Resources

This part of Sec. 7 is potentially dangerous, forbidding all but temporary (90-day) or interim restrictions of undefined "access" on parklands. With the annual legislative report requirement of Sec. 6, this section is unnecessary: the legislature could take action against any closure it questioned. This section will needlessly impair public safety and resource protection. Examples of restrictions it will forbid, or require to be brought to the legislature for enactment, include:

Construction closures typically last longer than 90 days, and the complete site must be closed for safety reasons. In the past couple of years, all of the following were closed for construction for at least one season: House of Wickersham, Alaska Veterans' Memorial, Kepler-Bradley State Recreation Site, Potter Creek Trailhead, Bird Ridge Trailhead, Deep Creek campground (east of highway). In the summer of 1997, McHugh Creek (Chugach), Worthington Glacier, parts of Lake Louise, and Castle Hill (Sitka) will be closed for construction for longer than 90 days.

Disasters such as oil spills, floods, and landslides happen quickly, but may take far longer than 90 days to repair. If the legislature failed to pass a closure bill, Parks would be forced to reopen the site, with resulting state liability for any accidents. Examples: the 1993 oil spill at Indian (Chugach, 37,000 gallons of jet fuel) caused Parks to close 14 acres for the duration of clean-up and mediation, which is still ongoing. Fall 1995 flooding caused extensive damage to the Eklutna Lakeside Trail, including culvert and bridge wash-outs, which took 18 months to repair. During this time the trail was closed. Damage to Bing's Landing on the Kenai River caused closure of much of the river bank pending work that is scheduled for the summer of 1997. Juneau's Perseverance Trail washed out in the fall of 1996 and has been closed since. Trail work is planned for summer 1997, pending legislative appropriation. Until that time the trail is dangerous. A local high school runner ignored the trail closure signs and fell to his death at Thanksgiving.

Parties and vandalism - Teenage partying and vandalism have required evening or seasonal park closures at numerous sites near urban centers, including: Upper Huffman trailhead (Chugach), which is open only in the winter for snowmobile use, then closed in the summer to deter partying; McHugh Creek (Chugach), closed at 10 pm in the summer and closed all winter to deter partying and vandalism; Potter Creek Trailhead (Chugach), closed during the winter to prevent vandalism; Bird Creek Valley (Chugach), where one-half mile of the access road is closed to displace a teen partying site; and all Sitka parks are closed at 11 pm in cooperation with local law authorities.

Swimming beaches - Parks closes or restricts boating (limiting speeds via a no-wake zone) within swimming areas to prevent safety hazards to swimmers. Examples include Big Lake North and South, Nancy Lake, and Captain Cook.

Over-use sometimes requires long-term closure to allow resource damage to heal. Examples include streambank closures on the Kenai River and Deep Creek to restore salmon rearing habitat, and trail closures at the Glenn Alps Trailhead (Chugach) to allow rehabilitation of damaged vegetation and erosion. Eagle Beach SRA was closed to off-road vehicles because of damage to beach grass habitat and wild strawberry beds.

Seasonal closures - In the spring when the snow cover shrinks to a certain level, snowmobiling is closed to prevent vegetation damage and is not reopened until the following fall when adequate snow cover is present. Parks also closes 75 campgrounds for the winter, along with day-use sites in Chugach, Mat-Su, Kenai, and Kodiak, for a combination of vandalism protection, lack of demand, and lack of winter maintenance budgets.

Management reasons - Some park units have been permanently closed for management reasons, usually declining budgets combined with increasing expenses due to vandalism or location, including Moose Creek SRS, Tolsona Creek SRS, Centennial Lake SRS, and Anchor River SRS. Before resorting to closure, Parks offers management opportunity to local government and evaluates the area for possible contract management. These four areas were either day-use sites that did not lend themselves to revenue generation, or did not qualify for charging campground fees because of the lack of water service.

Sec. 8 legislatively adds three parcels, totaling 10.85 acres, to Chilkat State Park. The affected lands were purchased with Land and Water Conservation Funds and added administratively. If Sec. 7 were interpreted as withdrawing them from recreational use, the grantor would require that they be replaced by similar lands of equal recreational value and utility. The length and complexity of this section—three pages of legislative legal descriptions, with all the attendant risk of errors, to add less than 11 acres to a park—is an inefficiency that Sec. 7 will cause.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

February 6, 1997

**SUBJECT:** CSSB 35(RES) (W.O. 20-LS0274\B)

**TO:** Senator Rick Halford  
Attn: Brett Huber

**FROM:** Gerald P. Luckhaupt   
Legislative Counsel

Enclosed is the final CS(RES) you requested. I have several comments about the committee substitute.

1. Single Subject. The committee substitute does not appear to me to be confined to one single subject as required by art. II, sec. 13, Constitution of the State of Alaska. While, arguably, there is a single subject of "access to land, water, and land and water" in bill secs. 1 - 6, bill secs. 7 (subsection (d)) and 8 relate only to state parks and not to access.
2. Prohibition on Regulations that Restrict Traditional Access. Bill secs. 1, 2, and 4 - 5, provide that the particular departments and boards described in those sections may not adopt regulations that prohibit or restrict "traditional access" to land, water, and land and water. Brett Huber informed me that there was discussion before the committee that "traditional access" was defined in sec. 6 of the bill and that that definition applied to these other bill sections. While "traditional means of access" is defined in sec. 6 of the committee substitute, in terms of "traditional means of access for a traditional recreational activity", "traditional access" is not defined. If a definition of "traditional access" is desired one will have to be supplied for bill secs. 1, 2, and 4 - 5.
3. Access to Parklands. Bill sec. 5 (added by amendment E.2) provides that DNR may not adopt regulations that restrict traditional access to state land, water, or land and water. Bill sec. 7 (added by amendment E.1) provides that DNR may close or restrict access to land, water, or land and water, managed under AS 41.21 if the closure or restriction is limited in time or approved by the legislature. These provisions conflict as adopted by the committee. Per Brett's instructions that it was the committee's intent that these two amendments both have vitality, I added language that limits the broad prohibition in sec. 5 to situations other than those provided in bill sec. 7.

GPL:jdr:pl  
97-086.jdr

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

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Enclosed is the final CS(RES) you requested. I have several comments about the committee substitute.

1. Single Subject. The committee substitute does not appear to me to be confined to one single subject as required by art. II, sec. 13, Constitution of the State of Alaska. While, arguably, there is a single subject of "access to land, water, and land and water" in bill secs. 1 - 6, bill secs. 7 (subsection (d)) and 8 relate only to state parks and not to access.
2. Prohibition on Regulations that Restrict Traditional Access. Bill secs. 1, 2, and 4 - 5, provide that the particular departments and boards described in those sections may not adopt regulations that prohibit or restrict "traditional access" to land, water, and land and water. Brett Huber informed me that there was discussion before the committee that "traditional access" was defined in sec. 6 of the bill and that that definition applied to these other bill sections. While "traditional means of access" is defined in sec. 6 of the committee substitute, in terms of "traditional means of access for a traditional recreational activity", "traditional access" is not defined. If a definition of "traditional access" is desired one will have to be supplied for bill secs. 1, 2, and 4 - 5.
3. Access to Parklands. Bill sec. 5 (added by amendment E.2) provides that DNR may not adopt regulations that restrict traditional access to state land, water, or land and water. Bill sec. 7 (added by amendment E.1) provides that DNR may close or restrict access to land, water, or land and water, managed under AS 41.21 if the closure or restriction is limited in time or approved by the legislature. These provisions conflict as adopted by the committee. Per Brett's instructions that it was the committee's intent that these two amendments both have vitality, I added language that limits the broad prohibition in sec. 5 to situations other than those provided in bill sec. 7.

GPL:jdr:pl  
97-086.jdr

Alaska State Parks Units - ILMAs

Page 2 of 2

unit name	acres	land*	Facilities** -->								PUC	City
			CS	P	T	W	S	Tr	B			
<b>Mat-Su Area</b>												
Big Lake South SRS	19	Fed	20	10	T	W				B		Wasilla
King Mountain SRS	20	Fed	22	2	T	W	S					Palmer
Big Lake North SRS	22	Fed	60	24	T	W	S			B		Wasilla
Wolf Lake SRS	23	SS	4	4	T					Tr		Palmer
Nancy Lake SRS	36	SS	30	30	T	W	S			B		Willow
Moose Creek SRS	40	Fed	12	4	T	W				Tr		Palmer
Finger Lake SRS	47	PED	41	10	T	W				Tr	B	Palmer
Rocky Lake SRS	49	SS	10		T	W					B	Wasilla
Bonnie Lake SRS	128	SS	8		T						B	Palmer
Malenaska Glacier SRS	229	SS	12		T	W				Tr		Palmer
Kapler-Bradley Lakes SRA	346	SS, PED		10	T	W				Tr		Palmer
Summit Lake SRS	360	SS			T					Tr		Palmer
Long Lake SRS	480	SS	0		T						B	Palmer
Independence Mine SHP	490	SS, PED			T	W				Tr		Palmer
<b>Valdez/Copper Basin Area</b>												
Liberty Falls SRS	10	Fed	10		T					Tr		Chitina
Little Nelchina SRS	22	Fed	11		T					Tr	B	Glennallen
Lake Louise SRA	84	PED	60		T	W	S				B	Glennallen
Little Tonsina SRS	103	Fed	8		T	W						Copper Cr.
Worthington Glacier SRS	113	Fed			T		S			Tr		Valdez
Squirrel Creek SRS	160	SS	23		T	W						Copper Cr.
Porcupine Creek SRS	240	PED	12		T	W				Tr		Tok
Dry Creek SRS	372	SS, PED	58	4	T	W	S			Tr		Glennallen
Blueberry Lake SRS	379	Fed	15		T					Tr		Valdez
<b>Northern Area</b>												
Tok River SRS	9	Fed, PED	43		T	W	S			Tr		Tok
Big Delta SHP	11	SS, PED	25	5	T	W				Tr		Delta Jct.
Moon Lake SRS	22	Fed	15		T	W					B	Tok
Delta SRS	23	PED	22	6	T	W	S					Delta Jct.
Chena River SRS	27	SS	63	30	T	W	S			Tr	B	Fairbanks
Clearwater SRS	27	Fed	18		T	W					B	Delta Jct.
Donnelly Creek SRS	42	SS	12		T	W				Tr		Delta Jct.
Salcha River SRS	62	Fed, PED	95	5	T	W					B	Delta Jct.
Upper Chatanika River SRS	73	SS, Fed	35		T	W						Fairbanks
Harding Lake SRA	169	SS	125	35	T	W	S			Tr	B	Delta Jct.
Birch Lake SRS	192	SS	10		T						B	Delta Jct.
Eagle Trail SRS	280	SS	45	4	T	W	S			Tr		Tok
Lower Chatanika River SRA	400	SS	80	8	T	W	S			Tr	B	Fairbanks
Quartz Lake SRA	556	SS	68	8	T	W	S			Tr	B	Delta Jct.
Fielding Lake SRS	605	SS	7		T						B	Delta Jct.
<b>LDAs</b>												
Chilkat SP	17	PED	35		T	W	S			Tr	B	Haines
Denali SP - Blair Lake	400	SS								Tr		Trapper Cr.
Denali SP - Tokositna River	600	SS	hydrographic park boundary									Trapper Cr.
Funny River - KRSMA	11	PED	5		T	W						Staring
The Pillars - KRSMA	16	PED			T					Tr	B	Soldotna
Pipeline - KRSMA	7	PED										Soldotna
Cooper Landing - KRSMA	421	SS	boat launch & toilets planned for 1997 construction									Cooper Land.
* definitions of abbreviations in land ownership column						**Facility definitions						
SS - State Selection,						CS - Campsites						
Fed - Transferred from Federal Government for Public Recreation						P - Picnic Sites						
PED - Purchase, Exchange or Donation						T - Toilets						
						W - Water						
						S - Shelters						
						Tr - Trails						
						B - Boat Launch						
						PUC - Public Use Cabins						

**Alaska State Parks Units - ILMAs**

Page 1 of 2

unit name	acres	land*	Facilities** →							PUC	City	
			CS	P	T	W	S	Tr	B			
<b>Southeast Area</b>												
Wickersham SHS	0.5	PED		historic building managed by contract								Juneau
Baranof Castle SHS	1	SS		ADA trail & toilet planned for 1897 construction								Sitka
Pioneer Park SRS	3	SS		6	T	W	S	Tr			Sitka	
Mosquito Lake SRS	5	Fed	5		T	W			B		Haines	
Portage Cove SRS	7	Fed	9	3	T	W					Haines	
Totem Blight SHP	11	Fed			T				Tr		Ketchikan	
Gruening SHP	12	PED		historic building managed by contract								Juneau
Refuge Cove SRS	13	Fed		14	T						Ketchikan	
Juneau Trail System	15	PED							Tr		Juneau	
Halibut Point SRS	22	Fed		9	T	W	S	Tr			Sitka	
Settlers Cove SRS	38	SS	12		T	W		Tr			Ketchikan	
Old Sitka SHP	31	Fed			T			Tr	B		Sitka	
Johnson Creek SRS	66	SS									Juneau	
Chilkoot Lake SRS	80	SS	32		T	W	S		B		Haines	
Grindall Island SMP	240	SS			T					PUC	Ketchikan	
Eagle Beach SRA	590	SS	planned	10	T				Tr		Juneau	
Black Sands Beach SMP	640	SS					S				Ketchikan	
<b>Southwest Area</b>												
There are no ILMAs in this area at this time.												
<b>Kodiak Area</b>												
Woody Island SRA	113	SS		day use facilities planned								Kodiak
Pasagshak SRS	120	SS, PED	7		T	W					Kodiak	
Ft. Abercrombie SHP	183	SS	13		T	W	S	Tr			Kodiak	
<b>Kenai Area</b>												
Kajielof River SRS	50	SS, PED	10		T	W		Tr	B		Soldotna	
Staniski SRS	60	Fed	13		T	W	S				Homer	
Ninilchik SRA	93	SS, Fed, PED	90		T	W	S				Homer	
Crooked Creek SRS	105	SS, PED	79	30	T	W		Tr			Soldotna	
Scout Lake SRS	164	SS, PED	8		T	W	S	Tr			Sterling	
Deep Creek SRA	172	SS, PED	164		T	W			B		Homer	
Anchor River SRA	228	PED	75		T	W	S				Homer	
Johnson Lake SRA	332	SS, Fed, PED	50	25	T	W	S		B		Soldotna	
Clam Gulch SRA	495	SS, PED	116		T	W	S				Soldotna	
Tonsina Point Access	620	SS, PED	4		T		S	Tr			Seward	
<b>PWS Area</b>												
There are no ILMAs in this area at this time.												
<b>Chugach Area</b>												
California Creek Trailhead	3	SS							Tr		Anchorage	
Commercial Drive	7	SS		maintenance building								Anchorage
Bird Creek Campground	31	Fed	47	20	T	W	S	Tr			Anchorage	
* definitions of abbreviations in land ownership column												
**Facility definitions												
SS - State Selection												
CS - Campsites												
Fed - Transferred from Federal Government for Public Recreation												
P - Picnic Sites												
PED - Purchase, Exchange or Donation												
T - Toilets												
W - Water												
S - Shelters												
Tr - Trails												
B - Boat Launch												
PUC - Public Use Cabins												

ALASKA STATE PARKS UNITS- ILMAs

UNIT NAME	ACRES	LAND	CAMPSITES	PICNIC SITES	TOILETS	WATER	SHELTERS	TRAILS	BOAT LAUNCH	CITY
<b>MAT-SU AREA</b>										
Big Lake South SRS	19	FED	20	10	T	W			B	Wasilla
King Mountain SRS	20	FED	22	2	T	W	S			Palmer
Big Lake North SRS	22	FED	60	24	T	W	S		B	Wasilla
Wolf Lake SRS	23	SS	4	4	T			TR		Palmer
Nancy Lake SRS	36	SS	30	30	T	W	S		B	Willow
Moose Creek SRS	40	FED	12	4	T	W		TR		Palmer
Finger Lake SRS	47	PED	41	10	T	W		TR	B	Palmer
Rocky Lake SRS	49	SS	10		T	W			B	Wasilla
Bonnie Lake SRS	129	SS	8		T				B	Palmer
Matanuska Glacier	229	SS	12		T	W		TR		Palmer
Kepler-Bradley Lakes	346	SSPED		10	T	W		TR		Palmer
Summit Lake SRS	360	SS			T			TR		Palmer
Long Lake SRS	480	SS	9		T				B	Palmer
Independence Mine	490	SSPED			T	W		TR		Palmer
<b>VALDEZ/COPPER Basin</b>										
Liberty Falls SRS	10	FED	10		T			TR		Chitina
Little Nelchina SRS	22	FED	11		T			TR	B	Glennallen
Lake Louise SRA	94	PED	60		T	W	S		B	Glennallen
Little Tonsina SRS	103	FED	8		T	W				Copper cr
Worthington Glacier	113	FED			T		S	TR		Valdez
Squirrel Creek SRS	160	SS	23		T	W				Copper Cr
Porcupine Creek SRS	240	PED	12		T	W		TR		Tok
Dry Creek SRS	372	SSPED	58	4	T	W	S	TR		Glennallen
Blueberry Lake SRS	379	FED	15		T			TR		Valdez

## ALASKA STATE PARKS UNITS- ILMAs

UNIT NAME	ACRES	LAND	CAMPSITES	PICNIC SITES	TOILETS	WATER	SHELTERS	TRAILS	BOAT LAUNCH	CITY	
<b>NORTHERN AREA</b>											
Tok River SRS	9	FEDPED	43		T	W	S	TR		Tok	
Big Delta	11	SSPED	25	5	T	W		TR		Delta Jct	
Moon Lake SRS	22	FED	15		T	W			B	Tok	
Delta SRS	23	PED	22	6	T	W	S			Delta Jct	
Chena River SRS	27	SS	63	30	T	W	S	TR	B	Fairbanks	
Clearwater SRS	27	FED	18		T	W			B	Delta Jct	
Donnelly Creek SRS	42	SS	12		T	W		TR		Delta Jct	
Salcha River SRS	62	Fed,PED	95	5	T	W			B	Delta Jct	
Upper Chatanika Riv.	73	SS,FED	35		T	W				Fairbanks	
Harding Lake SRA	169	SS	125	35	T	W	S	TR	B	Delta Jct	
Birch Lake SRS	192	SS	10		T				B	Delta Jct	
Eagle Trail SRS	280	SS	45	4	T	W	S	TR		Tok	
Lower Chatanika Riv.	400	SS	80	9	T	W	S	TR	B	Fairbanks	
Quartz Lake SRA	556	SS	88	5	T	W	S	TR	B	Delta Jct	
Fielding Lake SRS	605	SS	7		T				B	Delta Jct	
<b>LDAs</b>											
Chilkat SP	17	PED	35		T	W		TR	B	Haines	
Denali SP Blair Lake	400	SS						TR		Trapper Cr	
Denali SP Tokositna	600	SS		Hydrographic park boundary							Trapper Cr

ALASKA STATE PARKS UNITS- ILMAs

<i>UNIT NAME</i>	<i>ACRES</i>	<i>LAND</i>	<i>CAMPSITES</i>	<i>PICNIC SITES</i>	<i>TOILETS</i>	<i>WATER</i>	<i>SHELTERS</i>	<i>TRAILS</i>	<i>BOAT LAUNCH</i>	<i>CITY</i>
Funny River KRMSA	11	PED	5		T	W				
The Pillars KRSMA	16	PED			T			TR	B	Soldotna
Pipeline KRMSA	7	PED								Soldotna
Cooper Landing KRMSA	421	SS		Boat launch & Toilets planned for 1997 construction						Cooper Lnd

ALASKA STATE PARKS UNITS- ILMAs

UNIT NAME	ACRES	LAND	CAMPSITES	PICNIC SITES	TOILETS	WATER	SHELTERS	TRAILS	BOAT LAUNCH	CITY	
<b>SOUTHEAST AREA</b>											
Wickersham SHS	0.5	PED		historic building managed by contract							Juneau
Baranof Castle SHS	1	SS		ADA trail & Toilet planned for 1997 construction							Sitka
Pioneer Park SRS	3	SS		6	T	W	S	TR		Sitka	
Mosquito Lake SRS	5	Fed	5		T	W			B	Haines	
Portage Cove SRS	7	Fed	9	3	T	W				Haines	
Totem Bight SHP	11	Fed			T			TR		Ketchikan	
Gruening SHP	12	PED		historic building managed by contract							Juneau
Refuge Cove SRS	13	Fed		14	T					Ketchikan	
Juneau Trail Sys.	15	PED						TR		Juneau	
Halibut Point SRS	22	Fed		9	T	W	S	TR		Sitka	
Settlers Cove SRS	38	SS	12		T	W		TR		Ketchikan	
Old Sitka SHP	51	Fed			T			TR	B	Sitka	
Johnson Creek SRS	65	SS								Juneau	
Chilkoot Lake SRS	80	SS	32		T	W	S		B	Haines	
Grindall Island SMP	240	SS			T					Ketchikan	
Eagle Beach SRA	590	SS	planned	10	T			TR		Juneau	
Black Sands Beach	640	SS					S			Ketchikan	
<b>SOUTHWEST AREA</b>											
There are no ILMAs in this area.											
<b>KODIAK AREA</b>											
Woody Island SRA	113	SS								Kodiak	
Pasagshak SRS	120	SS,PED	7		T	W				Kodiak	
Ft. Abercrombie SHP	183	SS	13		T	W	S	TR		Kodiak	

ALASKA STATE PARKS UNITS- ILMA<sup>s</sup>

UNIT NAME	ACRES	LAND	CAMPSITES	PICNIC SITES	TOILETS	WATER	SHELTERS	TRAILS	BOAT LAUNCH	CITY
<b>KENAI AREA</b>										
Kasilof River SRS	50	SS,FED	10		T	W		TR	B	Soldotna
Stariski SRS	60	Fed	13		T	W	S			Homer
Ninlichik SRA	93	SS,PED	90		T	W	S			Homer
Crooked Creek SRS	105	SS,PED	79	30	T	W		TR		Soldotna
Scout Lake SRS	164	SS,PED	8		T	W	S	TR		Sterling
Deep Creek SRA	172	SS,PED	164		T	W			B	Homer
Anchor River SRA	228	PED	75		T	W	S			Homer
Johnson Lake SRA	332	SS,PED	50	25	T	W	S		B	Soldotna
Clam Gulch SRA	495	SS,PED	116		T	W	S			Soldotna
Tonsina Point Access	620	SS,PED	4		T		S	TR		Seward
<b>PWS AREA</b>										
There are no LIMAs in this area at this time										
<b>CHUGACH AREA</b>										
California Creek Trl.	3	SS						TR		Anchorage
Commercial Drive	7	SS		maintenance building						Anchorage
Bird Creek Campgrd.	31	Fed	47	20	T	W	S	TR		Anchorage

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

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March 24, 1997

The Honorable Bert Sharp  
Alaska State Senate  
Co-Chair Senate Finance Committee  
Capitol Room 516  
Juneau, AK 99811

Dear Senator Sharp:

The Department of Natural Resources did not present testimony at the Senate Finance Committee hearing on SB 35. However, the department believes that information on this bill is important for the committee to consider as this bill approaches a floor session.

The sponsor of the bill is understandably concerned that her constituents are being denied full use of state parks by administrative actions which close park areas to certain activities which have traditionally been allowed. The action by the Division of Parks which initiated this bill was the 1995 release of draft regulations on Denali State Park. This draft proposal was not popular with the public due to the administrative inclusion of Blair Lake as an addition to Denali State Park and subsequent closure of aircraft landings on the lake. This draft proposal was withdrawn in response to public displeasure.

SB 35 would eliminate the Division of Parks discretion to close areas as described above without coming to the legislature for approval. However, it also removes the division's discretion to close any area for reasons of public safety or resource protection for over 90 days without the approval of the legislature. This approval must come in the form of a bill or resolution. Further, if the areas are reopened in the next year and then closed again, we need to take that second or subsequent closure to the legislature again for approval leading to a very confusing and convoluted process. There is every danger that a bill of this type would get held up in the process and fail to pass both bodies of the legislature. If that happened, the division would have to keep open areas that may be very dangerous to the public.

The department understands the sponsor's desire to curtail closures for aesthetic or social values. However, we do not understand nor think it wise to remove the department's discretion to close areas for longer than 90 days for reasons of public safety or resource protection.

The Honorable Bert Sharp

3/24/97

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In discussions with the Department of Law, it came to our attention that this method of dealing with closures for public safety reasons potentially removes the state's discretionary function immunity and opens opportunities for litigation.

The following are the types of closures over 90 days that the legislature will be required to either approve or disapprove each year. In addition, in the second year all closures of any type will need to come before the legislature for approval even if less than 90 days.

#### **Danger due to wildlife**

Bishop Creek Campground (Captain Cook SRA) closed for the season-danger of bears

Annual closure of Troublesome Creek trail in Denali State Park due to a high incidence of grizzly bears feeding on salmon in a heavily forested area.

**Disasters**-while the disastrous event is usually over with quickly (oil spills, floods, landslides), it frequently takes Parks longer than 90 days to repair. If the closure is not adopted by the legislature, and Parks was unable to post the area closed, the state could be held liable for not signing a dangerous site as closed. Examples:

Perseverance Trail washed out last fall and has been closed since. Trail work is planned for this summer. Closure is longer than 90 days. A local high school runner ignored the trail closure signs and fell to his death.

Indian Oil Spill in 1993 (37,000 gallons of jet fuel) caused Parks to close 14 acres for the duration of the clean-up and mediation process. This is on-going

Fall 1995 flooding caused extensive damage to the Eklutna Lakeside Trail, including culvert and bridge wash-outs. It took 18 months to repair this damage, during which the trail was closed.

Damage to Bing's Landing on the Kenai River caused closure of much of the river bank pending work that is scheduled for this summer.

#### **Lack of maintenance budgets**

Parks has permanently closed park units for management reasons, usually a combination of declining budget and increasing expenses due to vandalism or location. In the past few years Moose Creek SRS, Tolsona Creek SRS, Centennial Lake SRS, and Anchor River SRS have been closed for these reasons. Each of these closures would need to come before the legislature in addition to any of the Parks that would be closed for budgetary reasons during FY 98. These closures for budgetary reasons will be very controversial and would require legislative approval or disapproval.

The Honorable Bert Sharp

3/24/97

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**Parties and vandalism**-Teenagers and vandalism have caused numerous parks near urban centers to be closed either in the evenings or for the season. These are beyond 90 days and would need legislative approval.

Upper Huffman Trailhead--open only in the winter for snowmobile use. Closed in the summer because of partying.

McHugh Creek closed at 10 PM in the summer and closed all winter to deter partying and vandalism.

Potter Creek Trailhead closed during the winter to prevent vandalism.

Bird Creek Valley closed one-half mile of access road to displace teen partying site.

All Sitka parks are closed at 11 PM in cooperation with local law authorities.

**Over-use**--areas that receive so much use that the resource is damaged and needs immediate response.

Streambank closures on fishing streams to protect salmon rearing habitat on the Kenai River and at Deep Creek.

Glenn Alps Trailhead in Chugach State Park due to erosion and vegetation damage.

Vegetation damage--in the spring when the snow cover shrinks snowmobiling is closed.

#### **Winter Closures**

75 campgrounds closed for the winter are longer than 90 days and would require annual legislative approval.

Day use areas in Chugach, Mat-Su, Kenai and Kodiak areas are similarly closed each season.

**Conflicts** between boating and swimmers causes us to close or restrict boating within swimming areas. Typically Parks defines a speed limit through creation of a no-wake zone. Examples are big Lake North and South, Nancy Lake, and Captain Cook.

**Construction closures** due to refurbishment of facilities, Parks will close a facility for longer than 90 days for public safety reasons to keep the public out of a construction zone.

The Honorable Bert Sharp

3/24/97

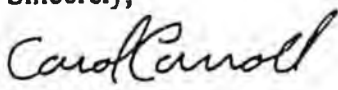
Page 4

The original SB35 had simply a restriction on administratively expanding park units without legislative approval (in response to Blair Lake) and an annual report of those areas where traditional recreational access was restricted and the reasons for closure. The overwhelming majority of such closures are for public safety and resource protection. The report would allow the legislature the opportunity to annually review the closures and take action against those they feel are inappropriate. This process would take far less of the legislature's time than taking affirmative action on routine public safety and resource protection closures.

Returning to the original intent of the bill would allow public safety or natural resource closures to remain active and would avoid any liability questions. We urge a return to the original intent of the bill.

Thank you for this opportunity to provide additional information.

Sincerely,

  
for John Shively  
Commissioner

Distribution:

Senator Phillips  
Senator Parnell  
Senator Pearce  
Senator Adams  
Senator Donley  
Senator Torgerson

PARK LAND CLOSURES - ref SB35

#	AREA	DESCRIPTION OF AREA	REASON FOR CLOSURE	UNDER LAW
1	<b>BISHOP CREEK CAMPGROUND</b>			
	CAPTAIN COOK SRS, KENAI	3,600 acres Jointly manages /ADF&G	Annual Closure - Bear Danger	AS 41.21.420
2	<b>Denali State Park</b>			
	TROUBLESOME CREEK TRAIL		Annual Closure - Bear Danger	AS 41.21.150-51
	<b>Juneau Trail System</b>			
3	PERSERVERANCE TRAIL	15.5 miles of trail	Death of Hiker - Trailwork	ILMA
	<b>Chugach State Park</b>			
4	INDIAN OIL SPILL	14 acres	Closed in 1993 Jet Fuel Spillage	AS 41.21.123
5	EKLUTNA LAKESIDE TRAIL		Closed for Repair	41.21.123
	<b>ILMA'S</b>			
6	BINGS LANDING - KENAI RIVER	125.75 acres	River Bank Erosion	ILMA
7	MOOSE CREEK SRS	39.85 acres	Vandalism/Budget	ILMA
8	TOLSONA CREEK SRS	FED Property 2 acr. Proj mothballed '94	Never conveyed <sup>from Feds</sup> <sub>to State</sub>	
9	CENTENNIAL LAKE SRS	97.98 acres	Vandalism/Budget	ILMA
10	ANCHOR RIVER SRS	34.60 acres	Vandalism/Budget	ILMA
	<b>Chugach State Park</b>			
11	UPPER HUFFMAN TRAILHEAD		Parties and Vandalism	AS 41.21.123
12	MCHUGH CREEK		Parties and Vandalism	AS 41.21.123
13	POTTER CREEK		Parties and Vandalism	AS 41.21.123
14	BIRD CREEK VALLEY		Erosion and Vegetation Damage	AS 41.21.123

PARK LAND CLOSURES - ref SB35

	<i>AREA</i>	<i>DESCRIPTION OF AREA</i>	<i>REASON FOR CLOSURE</i>	<i>UNDER LAW</i>
15	<i>Sitka Parks</i>			
	PIONEER PARK SRS	3 acres	Local law after 11pm	ILMA
	BARANOF CASTLE SHS	1 acre	Local law after 11pm	ILMA
	HALIBUT POINT SRS	22 acres	Local law after 11pm	ILMA
	OLD SITKA SHP	51 acres	Local law after 11pm	ILMA
	<i>Chugach State Park</i>			
16	GLENN ALPS TRAILHEAD		Erosion and Vegetation Damage	AS 41.21.123
<i>REF</i>	<i>75 ILMA CAMPGROUNDS</i>	Various	Winter Closures	ILMA

Article 4. State Recreation Areas.

Section

- 410. Purpose of AS 41.21.410 — 41.21.425
- 415. Authority to designate Captain Cook State Recreation Area
- 420. Incompatible uses
- 425. Negotiated purchase authorized
- 430. Purpose of AS 41.21.430 — 41.21.445
- 435. Authority to designate Caines Head State Recreation Area
- 440. Incompatible uses
- 445. Purchase authorized; eminent domain prohibited
- 450. Purpose of AS 41.21.450 — 41.21.465
- 455. Nancy Lake State Recreation Area established

Section

- 460. Incompatible uses
- 465. Purchase authorized
- 470. Purpose of AS 41.21.470 — 41.21.49C
- 475. Chena River State Recreation Area established
- 480. Eminent domain authorized to acquire necessary access
- 485. Zoning of private land
- 490. Incompatible uses
- 491. Willow Creek state recreation area
- 492. Designation of management responsibilities
- 493. Comprehensive management plan
- 494. Regulations
- 495. Cooperative management agreements

**Sec. 41.21.410. Purpose of AS 41.21.410 — 41.21.425.** The purpose of AS 41.21.410 — 41.21.425 is to empower the governor to restrict state owned land and water described in AS 41.21.415 to use as a public recreation area. Under AS 38.05.300, state land, water or land and water containing more than 640 acres may be closed to multiple purpose use only by act of the legislature. Because the area described in AS 41.21.415 exceeds 640 acres, AS 41.21.410 — 41.21.425 are intended to provide for the closing of the described land and water to multiple purpose use in conformity with AS 38.05.300 and its subsequent designation as a special purpose site in accordance with article VIII, § 7, of the Constitution of the State of Alaska. (§ 1 ch 100 SLA 1969)

*Revisor's notes.* — Enacted as AS 41.20.070. Renumbered as AS 41.20.130 in 1969. Renumbered again in 1983.

**Sec. 41.21.415. Authority to designate Captain Cook State Recreation Area.** The governor may designate by proclamation the state-owned land and water and all that acquired in the future by the state, lying within the parcels described in this section, as the Captain Cook State Recreation Area. The proclamation may include the entire area or portions of the area at different times, shall reserve the areas included from all uses incompatible with their primary function as public recreation land and water, and shall assign them to the department for control, development and maintenance. Land covered by AS 41.21.410 — 41.21.425 is that within the following described parcels:

Township 8 North, Range 10 West, Seward Meridian

Section 3

Section 9

Section 10: NW¼, NE¼, SW¼, W½ SE¼

Section 15: W½ W½

Sections 16 and 17

All tideland abutting the above and all of Stormy Lake. (§ 1 ch 100 SLA 1969)

*Revisor's notes.* — Enacted as AS 41.20.080. Renumbered as AS 41.20.140 in 1969. Renumbered again in 1983. In 1969, "SW¼" was added to the

description of land in Section 10 to correct a manifest clerical error in ch. 100, SLA 1969.

**Sec. 41.21.420. Incompatible uses.** The commissioner shall designate by regulation incompatible uses within the boundaries of the Captain Cook State Recreation Area in accordance with AS 41.21.410, and those incompatible uses designated shall be prohibited or restricted, as provided by regulation. (§ 1 ch 100 SLA 1969)

*Revisor's notes.* — Enacted as AS 41.20.090. Renumbered as AS 41.20.150 in 1969. Renumbered again in 1983.

Section 15, "Lot 1" is a manifest error  
 1990 amendment  
 prohibit or restrict uses within the  
 Fish and Game AS 16.05.092  
 park unit of the recreational purposes,  
 Game shall be subject to enforcement (SLA 1986)

rehabilitation enhancement and development under AS 16.05.092 on land lying within the parcels described in AS 41.21.140. (§ 1 ch 82 SLA 1972)

Revisor's notes. — Formerly AS 41.20.261(d). Re-numbered in 1983.

Sec. 41.21.143. Discharge of firearms. [Repealed, § 2 ch 126 SLA 1984.]

Sec. 41.21.150. Purpose of AS 41.21.150 — 41.21.152. The purpose of AS 41.21.150 — 41.21.152 is to restrict state-owned land and water described in AS 41.21.151 to use as a state park. Under AS 38.05.300, state land, water, or land and water containing more than 640 acres may be closed to multiple use only by act of the legislature. Because the area described in AS 41.21.151 exceeds 640 acres, AS 41.21.150 — 41.21.152 are intended to provide for the closing of the described land and water to multiple use in conformity with AS 38.05.300 and its designation as a special purpose area in accord with art. VIII, § 7 of the Constitution of the State of Alaska. (§ 2 ch 233 SLA 1970)

Revisor's notes. — Formerly AS 41.20.300. Re-numbered in 1983.

Sec. 41.21.151. Denali State Park established. The state-owned land and water and that acquired in the future by the state lying within the parcels described in this section are designated as the Denali State Park. This land and water is reserved from all uses incompatible with its primary function as park area. Land covered by AS 41.21.150 — 41.21.152 is that within the following described parcels:

(1) Township 29N Range 6W, Range 5W, and that portion of Range 4W lying north and west of the Alaska Railroad right-of-way; Township 30N Range 5W and that portion of Range 3W and 4W lying north and west of the Alaska Railroad right-of-way; Township 31N Range 5W, Range 4W and that portion of Range 3W and Range 2W lying north and west of the Alaska Railroad right-of-way; Township 32N Range 4W, Range 3W and that portion of Range 2W lying north and west of the Alaska Railroad right-of-way; and Township 33N Range 4W, Range 3W and that portion of Range 2W lying west of the Alaska Railroad right-of-way, all in the Seward Meridian;

(2) Township 29N, Range 7W; Sections 1-27 and 34-36, Township 29N, Range 8W; containing approximately 42,240 acres, all in the Seward Meridian. (§ 2 ch 233 SLA 1970; am § 1 ch 135 SLA 1976)

Revisor's notes. — Formerly AS 41.20.310. Re-numbered in 1983.

Cross references. — For authority of commission to adopt regulations designating incompatible uses,

see AS 41.21.020(6); for legislative declaration that certain electrical transmission line is a compatible use in Denali State Park, see § 14, ch 118, SLA 1981.

Sec. 41.21.152. Eminent domain prohibited. The state may not acquire by eminent domain privately owned land for inclusion in the Denali State Park. (§ 2 ch 233 SLA 1970)

Revisor's notes. — Formerly AS 41.20.320. Re-numbered in 1983.

Sec. 41.21.160. Purpose of AS 41.21.160 — 41.21.167. The purpose of AS 41.21.160 — 41.21.167 is to establish the state-owned land and water areas described in AS 41.21.161 as the Wood-Tikchik State Park. The primary purposes of creating the Wood-Tikchik State Park are to protect the area's fish and wildlife breeding and support systems and to preserve the continued use of the area for subsistence and recreational activities. The state park is also created to protect the area's recreational and scenic resources. AS 41.21.160 — 41.21.167 are intended to close the described land and water

to multiple-p purpose site : (§ 1 ch 86 SI

Revisor's no: numbered in 198

Sec. 41.21. acquired land 1,428,320 acr corner of T7S, corner of T8S. westerly to th R58W, S.M.; t northerly to t corner of T1N thence easterl of T4N, R56V northerly to th R55W, S.M.; th NE corner of T thence easterl of T3N, R53W southerly to th R52W, S.M.; th NE corner of T thence westerl of T4S, R53W southerly to th

(b) All or pa adjacent parce Tikchik State F R54W, S.M., w of T8S, R54W, southerly to th SW corner of th T9S, R57W, S.M to the NE corne which point is 1

(c) Land lyin are valid entri corporations un Alaska Native However, if any state, it shall be

Revisor's notes. numbered in 1983. 1 of the legal descri

Sec. 41.21.16 described in AS development cor. ment of Fish and

NOTES TO DECISIONS

NW¼ NE¼, NW¼  
, SW¼ NE¼ NE¼,

¼ SW¼, S½ SE¼  
¼ SE¼ SW¼, SW¼  
¼, S½ NW¼ SW¼,  
SW¼, SW¼ SW¼

**Compensation required.** — The statute which created Chugach State Park requires compensation. *State v. University of Alaska*, 624 P.2d 807 (Alaska 1981).

**Inclusion of university lands without compensation.** — Inclusion of the University of Alaska lands in Chugach State Park without paying compensation to the university violated the trust provision of the federal grant. *State v. University of Alaska*, 624 P.2d 807 (Alaska 1981).

The objective that park lands are to be managed in a way that will increase "the value of a recreational experience" is incompatible with the objective of using university land for the "exclusive use and benefit" of the University of Alaska, since the implied intent of the grant was to maximize the economic return from

the land for the benefit of the university and this intent cannot be accomplished if the use of the land is restricted to any significant degree. *State v. University of Alaska*, 624 P.2d 807 (Alaska 1981).

**AS 38.05.030(a) not impliedly repealed.** — By enacting this section, creating Chugach State Park, the legislature did not impliedly repeal former AS 38.05.030(a), which prevented disposal of university lands by the commissioner of natural resources without the approval of the Board of Regents of the University of Alaska. This section withdrew the particular university land involved from the operation of the management mechanism created by former AS 38.05.030(a) and 14.40.170(a)(4), which grants certain management powers to the Board of Regents. *State v. University of Alaska*, 624 P.2d 807 (Alaska 1981).

**Sec. 41.21.122. Management responsibility.** The state land and water described in AS 41.21.121 as the Chugach State Park is assigned to the department for control, development and maintenance, except that the Department of Transportation and Public Facilities is responsible for the repair and maintenance of all existing public roads within the park. The control of highway access and roadside structures within the Chugach State Park is the responsibility of the department. The Department of Fish and Game shall cooperate with the department to provide for those purposes under AS 41.21.121 relevant to the duties of the Department of Fish and Game. If, in the exercise of management responsibility under this section, conflicts of land ownership, jurisdiction, or authority are unreconcilable or unmanageable other than at an unreasonable cost and expense to the state, the commissioner after public hearing in accordance with AS 44.62 may modify, subject to the approval of the legislature, the boundaries of the Chugach State Park not to exceed 20 percent of the total acreage described in AS 41.21.121. (§ 1 ch 112 SLA 1970)

**Revisor's notes.** — Formerly AS 41.20.220. Renumbered in 1983. Under the authority of this section, the commissioner of natural resources held public hearings and modified the boundaries of the park. By adopting HCR 75 am in 1974, the legislature gave the required approval. The action removed the following land from the park: (1) land lying within the city limits of Girdwood in T10N, R2E, S.M.; (2) land in Sec.

10, T11N, R3W, S.M. south and west of and adjacent to the toe of the bluff that extends from Campbell Point southeasterly to Potter Creek that has been designated as the Potter Point State Game Refuge; (3) USS 3070 in Sec. 9, T16N, R2E, S.M., which is an isolated parcel of foreclosed land not contiguous to the park.

**Sec. 41.21.123. Incompatible uses.** (a) The commissioner shall designate by regulation, adopted in accordance with AS 44.62 (Administrative Procedure Act), incompatible uses within the boundaries of the Chugach State Park in accordance with AS 41.21.120 — 41.21.125, and those incompatible uses designated are prohibited or restricted as provided by regulation.

(b) In adopting regulations under this section and in complying with AS 44.62.210, the commissioner shall provide the opportunity for the oral presentation of statements, arguments or contentions. (§ 1 ch 112 SLA 1970)

**Revisor's notes.** — Formerly AS 41.20.230(a) and (b). Renumbered in 1983.

**Sec. 41.21.124. Discharge of firearms.** [Repealed, § 2 ch 126 SLA 1984.]

**Sec. 41.21.125. Purchase authorized.** The commissioner may acquire, by purchase in the name of the state, title to or interest in real property lying within or abutting the boundaries of the Chugach State Park. (§ 1 ch 112 SLA 1970)

ept USS 3045

rest;

3282

orest;

112 SLA 1970; am

174 modifications to the AS 41.21.122, see the or legislative purposes in the 1987 amendment in the 39, SLA 1987 in the

1 = AMENDMENT #1 - TAYLOR  
= AMENDMENT #2 - GREEN  
= AMENDMENT #3 - LEMMA

THESE AMENDMENTS  
WERE AMENDED TO  
ADD "TRADITIONAL"  
TO ACCESS.

0-LS0274H

CS FOR SENATE BILL NO. 35(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS GREEN, Pearce, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act restricting the Board of Fisheries, the Board of Game, the Department  
2 of Fish and Game, and the Department of Natural Resources from enacting any  
3 regulation that prohibits or restricts traditional access; relating to the means of  
4 transportation used to provide access for the taking of game; relating to  
5 management of state land, water, and land and water as part of a state park,  
6 recreational or special management area, or preserve; relating to reports to the  
7 legislature concerning prohibitions or restrictions of traditional means of access for  
8 traditional recreational uses within a park, recreational or special management  
9 area, or preserve; requiring legislative approval before park land may be closed  
10 or have access restricted; relating to Chilkat State Park."

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

12 \* Section 1. AS 16.05.050 is amended by adding a new subsection to read:

1 (b) Notwithstanding any other provision of law, the commissioner may not  
 2 adopt a regulation that prohibits or restricts traditional access to land, water, or land  
 3 and water. If the commissioner finds a compelling reason to prohibit or restrict  
 4 traditional access to land, water, or land and water, the commissioner shall forward  
 5 that finding to the governor fo. submission to the legislature under the procedure  
 6 provided in AS 24.08.060 for the introduction of bills by the governor.

7 \* Sec. 2. AS 16.05.251 is amended by adding a new subsection to read:

8 (i) Notwithstanding any other provision of law, the Board of Fisheries may not  
 9 adopt a regulation that prohibits or restricts traditional access to land, water, or land  
 10 and water. If the board finds a compelling reason to prohibit or restrict traditional  
 11 access to land, water, or land and water, the board shall forward that finding to the  
 12 governor for submission to the legislature under the procedure provided in  
 13 AS 24.08.060 for the introduction of bills by the governor.

14 \* Sec. 3. AS 16.05.255(a) is amended to read:

15 (a) The Board of Game may adopt regulations it considers advisable in  
 16 accordance with AS 44.62 (Administrative Procedure Act) for

17 (1) setting apart game reserve areas, refuges, and sanctuaries in the  
 18 water or on the land of the state over which it has jurisdiction, subject to the approval  
 19 of the legislature;

20 (2) establishing open and closed seasons and areas for the taking of  
 21 game;

22 (3) establishing the means and methods employed in the pursuit,  
 23 capture, taking, and transport of game, including regulations, consistent with resource  
 24 conservation and development goals, establishing means and methods that may be  
 25 employed by persons with physical disabilities; however, the board may not prohibit  
 26 or restrict access into an area by a means of transportation that has historically  
 27 been used in that area unless the board finds, based on clear and convincing  
 28 evidence, that the means of transportation has resulted in significant biological  
 29 harm to the game population for which the means of transportation is being used;

30 (4) setting quotas, bag limits, harvest levels, and sex, age, and size  
 31 limitations on the taking of game;

- 1 (5) classifying game as game birds, song birds, big game animals, fur
- 2 bearing animals, predators, or other categories;
- 3 (6) methods, means, and harvest levels necessary to control predation
- 4 and competition among game in the state;
- 5 (7) watershed and habitat improvement, and management, conservation,
- 6 protection, use, disposal, propagation, and stocking of game;
- 7 (8) prohibiting the live capture, possession, transport, or release of
- 8 native or exotic game or their eggs;
- 9 (9) establishing the times and dates during which the issuance of game
- 10 licenses, permits, and registrations and the transfer of permits and registrations between
- 11 registration areas and game management units or subunits is allowed;
- 12 (10) regulating sport hunting and subsistence hunting as needed for the
- 13 conservation, development, and utilization of game;
- 14 (11) taking game to ensure public safety.

15 \* Sec. 4. AS 16.05.255 is amended by adding a new subsection to read:

16 (h) Notwithstanding any other provision of law, the Board of Game may not  
17 adopt a regulation that prohibits or restricts traditional access to land, water, or land  
18 and water. If the board finds a compelling reason to prohibit or restrict traditional  
19 access to land, water, or land and water, the board shall forward that finding to the  
20 governor for submission to the legislature under the procedure provided in  
21 AS 24.08.060 for the introduction of bills by the governor.

22 \* Sec. 5. AS 38.95 is amended by adding a new section to read:

23 **Article 7. Restriction on Authority of the Department of Natural Resources**  
24 **to Adopt Regulations That Restrict Traditional Access.**

25 **Sec. 38.95.300. Restriction on regulations that restrict traditional access.**

26 Except as provided in AS 41.21.020(e) and notwithstanding another provision of law,  
27 the Department of Natural Resources may not adopt a regulation that prohibits or  
28 restricts traditional access to state land, water, or land and water. If the department  
29 finds a compelling reason to prohibit or restrict traditional access to state land, water,  
30 or land and water, the department shall forward that finding to the governor for  
31 submission to the legislature under the procedure provided in AS 24.08.060 for the

ADDED  
TO CONFERENCE  
WITH  
AM #2

1 introduction of bills by the governor.

2 \* Sec. 6. AS 41.21.020(a) is amended to read:

3 (a) The department shall

4 (1) develop a continuing plan for the conservation and maximum use  
5 in the public interest of the scenic, historic, archaeologic, scientific, biological, and  
6 recreational resources of the state;

7 (2) plan for and develop a system of state parks and recreational  
8 facilities, to be established as the legislature authorizes and directs;

9 (3) acquire by gift, purchase, or transfer from state or federal agencies,  
10 or from individuals, corporations, partnerships, or associations, land necessary, suitable,  
11 and proper for roadside, picnic, recreational, or park purposes;

12 (4) develop, manage, and maintain state parks and recreational areas;

13 (5) provide for the acquisition, care, management, supervision,  
14 improvement, development, extension, and maintenance of public recreational land, and  
15 make necessary arrangements, contracts, or commitments for the improvement and  
16 development of land acquired under AS 41.21.010 - 41.21.040; contracting for  
17 improvement and development under this paragraph is governed by AS 36.30 (State  
18 Procurement Code);

19 (6) adopt, in accordance with this section and AS 44.62 (Administrative  
20 Procedure Act), regulations governing the use and designating incompatible uses within  
21 the boundaries of state park and recreational areas to protect the property and to  
22 preserve the peace;

23 (7) cooperate with the United States and its agencies and local  
24 subdivisions of the state to secure the effective supervision, improvement,  
25 development, extension, and maintenance of state parks, state monuments, state  
26 historical areas, and state recreational areas [,] and secure agreements or contracts for  
27 the purpose of AS 41.21.010 - 41.21.040;

28 (8) encourage the organization of state public park and recreational  
29 activities in the local political subdivisions of the state;

30 (9) provide for consulting service designed to develop local park and  
31 recreation facilities and programs;

1 (10) provide clearinghouse services for other state agencies concerned  
2 with park and recreation matters;

3 (11) perform other duties as are prescribed by executive order or by  
4 law;

5 (12) maintain memorials to Alaska veterans located in state parks;  
6 [AND]

7 (13) adopt, in accordance with AS 44.62 (Administrative Procedure  
8 Act), regulations governing the use of the Chena River State Recreation Area and  
9 designating incompatible uses within the boundaries of the Chena River State  
10 Recreation Area in accordance with AS 41.21.490; and

11 (14) annually, by the first day of each regular session of the  
12 legislature, submit a report to the legislature on each designation of an  
13 incompatible use under this chapter, or other action, that prohibits or restricts a  
14 traditional means of access across a park, area, or preserve established under this  
15 chapter for a traditional recreational activity on or within the park, area, or  
16 preserve; for each prohibition or restriction, the report must state reasons for the  
17 designation of incompatibility or prohibition or restriction of a traditional means  
18 of access, the specific area of the prohibition or restriction, and the time period  
19 during which the incompatibility or prohibition or restriction is expected to exist;  
20 in this paragraph,

21 (A) "traditional means of access" means those types of  
22 transportation on, to, or in the state land, water, or land and water, for  
23 which a popular pattern of use has developed; the term includes general  
24 or commercial aviation, ballooning, motorized and nonmotorized boating,  
25 snowmachining, operation of all-terrain vehicles, mushing, use of pack  
26 animals, skiing, snowshoeing, and walking;

27 (B) "traditional recreational activity" means those personal  
28 or commercial types of activities that people may use for sport, exercise,  
29 subsistence, or personal enjoyment, including hunting, fishing, trapping, or  
30 gathering, and that have historically been conducted as part of an  
31 individual, family, or community life pattern on or in the state land, water,

1 or land and water.

2 \* Sec. 7. AS 41.21.020 is amended by adding new subsections to read:

3 (d) Notwithstanding (a)(3) of this section, the department may not manage as  
4 part of a park, area, or preserve established under AS 41.21.110 - 41.21.630, land,  
5 water, or land and water that is not within the boundaries, as designated by the  
6 legislature, of the park, area, or preserve.

7 (e) Except as otherwise specifically provided in this chapter, the department  
8 may not close or restrict traditional access to land, water, or land and water, managed  
9 under this chapter unless the closure or restriction (1) is limited to a period of not  
10 more than 90 days in a calendar year, or (2) is submitted to the legislature for approval  
11 at the next regular session of the legislature. If the legislature fails to approve a  
12 closure or restriction under this subsection by the last day of that regular session, the  
13 closure or restriction ends and cannot be enforced after the last day of that regular  
14 session.

15 \* Sec. 8. AS 41.21.111 is amended to read:

16 **Sec. 41.21.111. Authority to designate Chilkat State Park.** The governor  
17 may designate by proclamation the state-owned land and water and all that acquired  
18 in the future by the state, lying within the parcels described in this section, as the  
19 Chilkat State Park. The proclamation may include the entire area or portions of the  
20 area at different times, shall reserve the areas included from all uses incompatible with  
21 their primary function as public recreation land and water, and shall assign them to the  
22 department for control, development, and maintenance. Land covered by AS 41.21.110  
23 - 41.21.113 has a total acreage of 6,056.30 [6,045.45] acres, including approximately  
24 610 acres of federal land, and is described as follows:

25 (1) Township 31 South, Range 60 East, Copper River Meridian U.S.S.  
26 1599: the portions of Sections 6-8 known as Battery Point Light House Reserve;

27 (2) Township 31 South, Range 59 East, Copper River Meridian Section  
28 1, excluding the portions of Lots 2 and 3 within the Chilkoot Inlet Alaska Subdivision  
29 Section 12: NW1/4, NE1/4, SE1/4 Township 31 South, Range 60 East, Copper River  
30 Meridian Section 6: Lots 1-3 Section 7: Lots 1-7 Section 8: Lot 1 Sections 17 and 18  
31 Section 19: NE1/4NW1/4, N1/2NE1/4;

(3) Township 31 South, Range 60 East, Copper River Meridian Section 30: Lots 8 and 9 Section 31 Section 32: SW1/4, W1/2NW1/4SE1/4, W1/2SE1/4NW1/4SE1/4, Lots 9-16 including W1/2SW1/4SE1/4SE1/4;

(4) Township 32 South, Range 60 East, Copper River Meridian Section 5: W1/2, W1/2SE1/4 Sections 6-9, 15-17, 21 and 22, excluding Tongass National Forest; and

(5) the following particularly described parcels:

(A) approximately 6.49 acres in U.S. Survey 1243, Haines Recording District, described as: begin on the South line of said survey South 88 degrees 31 minutes 45 seconds East 1950.84 feet from Southwest corner (corner 4 M.C.) of said survey, said point being the Southeast corner of the tract in said survey excepted in the decree in Case No. 68-328 of the Superior Court at Juneau, in which the distance is recited as being 29.55 chains (1950.30 feet), run thence North 01 degree 12 minutes 00 seconds East, on the East line of said excepted tract, 1028.77 feet, recited as 15.59 chains (1028.94 feet) in said decree, to the Northeast corner of said excepted tract; thence North 88 degrees 31 minutes 45 seconds West 24.33 feet; thence North 01 degree 27 minutes 45 seconds East 1.85 feet; thence on a 126.92 foot radius curve to the left through a central angle of 72 degrees 04 minutes 30 seconds a distance of 159.57 feet, the chord of which bears North 34 degrees 34 minutes 30 seconds West 149.27 feet; thence North 70 degrees 25 minutes 15 seconds West 119.52 feet; thence on a 208.11 foot radius curve to the right through a central angle of 62 degrees 04 minutes 00 seconds a distance of 225.48 feet, the chord of which bears North 39 degrees 23 minutes 15 seconds West 214.61 feet to the South line of "Mud Bay Road"; thence North 86 degrees 46 minutes 30 seconds East, on said line of "Mud Bay Road," 230.54 feet; thence South 70 degrees 25 minutes 15 seconds East 90.95 feet; thence on a 326.92 foot radius curve to the right through a central angle of 71 degrees 57 minutes 00 seconds a distance of 410.55 feet, the chord of which bears South 34 degrees 30 minutes 45 seconds 384.10 feet; thence South 01 degree 27

minutes 45 seconds West 1030.62 feet to the South line of said survey; thence North 88 degrees 31 minutes 45 seconds West 175.38 feet to the point of beginning;

(B) approximately .92 acres in Tract "D," C. McRae Subdivision according to Plat 77 - 12, Haines Recording District, described as: begin at the Southwest corner of said Tract "D" which is also the Southwest corner of the North one-half of the Southwest one-quarter of the Northwest one-quarter of Section 32, Township 31 South, Range 60 East of the Copper River Meridian, which bears North 01 degree 26 minutes 00 seconds West (Alaska State Plane Grid Bearings) 660.00 feet from the one-quarter corner on the West line of said section and South 01 degree 26 minutes 00 seconds East 660.00 feet from the North one-sixteenth corner on the West line of said section, run thence North 01 degree 26 minutes 00 seconds East, on the West line of said section, 347.81 feet to the Northeasterly line of Chilkat State Park Roadway; thence South 32 degrees 56 minutes 15 seconds East 70.04 feet to a point of curve; thence Southerly on a 0 degrees 58 minutes 58 seconds curve to the right (Radius = 5.829.65 feet) through an arc of 03 degrees 23 minutes 12 seconds (344.58 feet), the cord of which bears South 31 degrees 14 minutes 45 seconds East 344.53 feet. to the South line of said tract and the South line of the North one-half of the Southwest one-quarter of the Northwest one-quarter of said section; thence North 88 degrees 34 minutes 00 seconds West 225.56 feet to the point of beginning;

(C) approximately 3.44 acres in Tract "E," C. McRae Subdivision according to Plat 77 - 12, Haines Recording District, described as: begin at the Northwest corner of said tract which is also the one-sixty-fourth corner on the West line of said section which bears North 01 degree 26 minutes 00 seconds East (Alaska State Plane Grid Bearings) 660.00 feet from the one-quarter corner on the West line of Section 32, Township 31 South, Range 60 East of the Copper River Meridian and South 01 degree 26 minutes 00 seconds West 660.00 feet from the North one-sixteenth

1 corner of said section, run thence South 88 degrees 34 minutes 00 seconds  
2 East, on the North line of said tract which is also the South line of the  
3 North one-half of the Southwest one-quarter of the Northwest one-quarter  
4 of said section, 225.56 feet to a point on the Easterly line of Chilkat State  
5 Park Roadway; thence Southerly on a 0 degrees 58 minutes 58 seconds  
6 curve to the right (Radius = 5,829.65 feet) through an arc of 01 degree 46  
7 minutes 48 seconds (181.10 feet), the chord of which bears South 28  
8 degrees 39 minutes 39 seconds East 181.10 feet, to a point of tangency;  
9 thence South 27 degrees 46 minutes 15 seconds East 268.21 feet to a point  
10 of curve; thence on a 14 degrees 16 minutes 06 seconds curve to the right  
11 (Radius = 401.56) through an arc of 40 degrees 06 minutes 37 seconds  
12 (281.12 feet), the chord of which bears South 07 degrees 43 minutes 00  
13 seconds East 275.41 feet to the South line of said tract which is also the  
14 South line of the Southwest one-quarter of the Northwest one-quarter of  
15 said section; thence North 88 degrees 15 minutes 00 seconds West, on said  
16 South line, to the Westerly line of Chilkat State Park Roadway; thence  
17 Northerly on a 28 degrees 25 minutes 34 seconds curve to the left (Radius  
18 = 201.56 feet) through an arc of 50 degrees 59 minutes 51 seconds (179.40  
19 feet), the chord of which bears North 02 degrees 15 minutes 15 seconds  
20 West 173.54 feet to a point of tangency; thence North 27 degrees 46  
21 minutes 15 seconds West 268.21 feet to a point of curve; thence on a 01  
22 degree 01 minute 04 seconds curve to the left (Radius = 5,629.65 feet)  
23 through an arc of 02 degrees 50 minutes 00 seconds (278.39 feet), the  
24 chord of which bears North 29 degrees 11 minutes 15 seconds West 278.37  
25 feet to the West line of said section; thence North 01 degree 26 minutes 00  
26 seconds East 14.72 feet to the point of beginning.

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR TAYLOR

TO: CSSB 35(STA)

1 Page 1, line 1, following "Act":

2 Insert "restricting the Board of Fisheries, the Board of Game, the Department of  
3 Fish and Game, and the Department of Natural Resources from enacting any regulation  
4 that prohibits or restricts access;"

5 Page 1, following line 8:

6 Insert new bill sections to read:

7 **"\* Section 1.** AS 16.05.050 is amended by adding a new subsection to read:

8 (b) Notwithstanding any other provision of law, the commissioner may not  
9 adopt a regulation that prohibits or restricts <sup>Traditional</sup> access to land, water, or land and water.

10 If the commissioner finds a compelling reason to prohibit or restrict access to land,  
11 water, or land and water, the commissioner shall forward that finding to the governor  
12 for submission to the legislature under the procedure provided in AS 24.08.060 for  
13 the introduction of bills by the governor.

14 **\* Sec. 2.** AS 16.05.251 is amended by adding a new subsection to read:

15 (i) Notwithstanding any other provision of law, the Board of Fisheries may  
16 not adopt a regulation that prohibits or restricts access to land, water, or land and  
17 water. If the board finds a compelling reason to prohibit or restrict access to land,  
18 water, or land and water, the board shall forward that finding to the governor for  
19 submission to the legislature under the procedure provided in AS 24.08.060 for the  
20 introduction of bills by the governor."

21 Page 1, line 9:

22 Delete **"\* Section 1.** "

23 Insert **"\* Sec. 3."**

1 Renumber the following bill sections accordingly.

2 Page 2, following line 27:

3 Insert new bill sections to read:

4 **\*\* Sec. 4.** AS 16.05.255 is amended by adding a new subsection to read:

5 (h) Notwithstanding any other provision of law, the Board of Game may not  
6 adopt a regulation that prohibits or restricts access to land, water, or land and water.  
7 If the board finds a compelling reason to prohibit or restrict access to land, water, or  
8 land and water, the board shall forward that finding to the governor for submission  
9 to the legislature under the procedure provided in AS 24.08.060 for the introduction  
10 of bills by the governor.

11 **\* Sec. 5.** AS 38.95 is amended by adding a new section to read:

12 **Article 7. Restriction on Authority of the Department of Natural Resources**  
13 **to Adopt Regulations That Restrict Access.**

14 **Sec. 38.95.300. Restriction on regulations that restrict access.**  
15 Notwithstanding any other provision of law, the Department of Natural Resources may  
16 not adopt a regulation that prohibits or restricts access to state land, water, land and  
17 water, or closes a state recreational or other facility managed by the department If  
18 the department finds a compelling reason to prohibit or restrict access to state land,  
19 water, land and water, or close a state recreational or other facility, the department  
20 shall forward that finding to the governor for submission to the legislature under the  
21 procedure provided in AS 24.08.060 for the introduction of bills by the governor."

22 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE SENATE  
TO: CSSB 35(STA)

BY SENATOR GREEN

1 Page 1, line 6, following "preserve;":

2 Insert "requiring legislative approval before park land or facilities may be closed  
3 or have access restricted;"

4 Page 4, line 28:

5 Delete "a new subsection"

6 Insert "new subsections"

7 Page 5, following line 1:

8 Insert a new subsection to read:

9 "(e) Except as otherwise specifically provided in this chapter, the department  
10 may not close or restrict <sup>Traditional</sup> access to land, water, land and water, or facilities managed  
11 under this chapter unless the closure or restriction (1) is limited to a period of not  
12 more than 90 days in a calendar year, or (2) is submitted to the legislature for  
13 approval at the next regular session of the legislature. If the legislature fails to  
14 approve a closure or restriction under this subsection by the last day of that regular  
15 session, the closure or restriction ends and cannot be enforced after the last day of that  
16 regular session."

is for public safety reasons.

CS FOR SENATE BILL NO. 35(STA)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:  
Referred:

Sponsors: SENATORS GREEN, Pearce, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the means of transportation used to provide access for the  
2 taking of game; relating to management of state land, water, and land and water  
3 as part of a state park, recreational or special management area, or preserve;  
4 relating to reports to the legislature concerning prohibitions or restrictions of  
5 traditional means of access for traditional recreational uses within a park,  
6 recreational or special management area, or preserve; relating to Chilkat State  
7 Park."

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

9 \* Section 1. AS 16.05.255(a) is amended to read:

10 (a) The Board of Game may adopt regulations it considers advisable in  
11 accordance with AS 44.62 (Administrative Procedure Act) for

12 (1) setting apart game reserve areas, refuges, and sanctuaries in the  
13 water or on the land of the state over which it has jurisdiction, subject to the approval

1 of the legislature:

2 (2) establishing open and closed seasons and areas for the taking of  
3 game:

4 (3) establishing the means and methods employed in the pursuit,  
5 capture, taking, and transport of game, including regulations, consistent with resource  
6 conservation and development goals, establishing means and methods that may be  
7 employed by persons with physical disabilities: however, the board may not prohibit  
8 or restrict access into an area by a means of transportation that has historically  
9 been used in that area unless the board finds, based on clear and convincing  
10 evidence, that the means of transportation has resulted in significant biological  
11 harm to the game population for which the means of transportation is being used;

12 (4) setting quotas, bag limits, harvest levels, and sex, age, and size  
13 limitations on the taking of game:

14 (5) classifying game as game birds, song birds, big game animals, fur  
15 bearing animals, predators, or other categories;

16 (6) methods, means, and harvest levels necessary to control predation  
17 and competition among game in the state;

18 (7) watershed and habitat improvement, and management, conservation,  
19 protection, use, disposal, propagation, and stocking of game;

20 (8) prohibiting the live capture, possession, transport, or release of  
21 native or exotic game or their eggs;

22 (9) establishing the times and dates during which the issuance of game  
23 licenses, permits, and registrations and the transfer of permits and registrations between  
24 registration areas and game management units or subunits is allowed;

25 (10) regulating sport hunting and subsistence hunting as needed for the  
26 conservation, development, and utilization of game;

27 (11) taking game to ensure public safety.

28 \* Sec. 2. AS 41.21.020(a) is amended to read:

29 (a) The department shall

30 (1) develop a continuing plan for the conservation and maximum use  
31 in the public interest of the scenic, historic, archaeological, scientific, biological, and

1 recreational resources of the state:

2 (2) plan for and develop a system of state parks and recreational  
3 facilities, to be established as the legislature authorizes and directs:

4 (3) acquire by gift, purchase, or transfer from state or federal agencies,  
5 or from individuals, corporations, partnerships, or associations, land necessary, suitable,  
6 and proper for roadside, picnic, recreational, or park purposes:

7 (4) develop, manage, and maintain state parks and recreational areas:

8 (5) provide for the acquisition, care, management, supervision,  
9 improvement, development, extension, and maintenance of public recreational land, and  
10 make necessary arrangements, contracts, or commitments for the improvement and  
11 development of land acquired under AS 41.21.010 - 41.21.040: contracting for  
12 improvement and development under this paragraph is governed by AS 36.30 (State  
13 Procurement Code);

14 (6) adopt, in accordance with this section and AS 44.62 (Administrative  
15 Procedure Act), regulations governing the use and designating incompatible uses within  
16 the boundaries of state park and recreational areas to protect the property and to  
17 preserve the peace;

18 (7) cooperate with the United States and its agencies and local  
19 subdivisions of the state to secure the effective supervision, improvement,  
20 development, extension, and maintenance of state parks, state monuments, state  
21 historical areas, and state recreational areas [,] and secure agreements or contracts for  
22 the purpose of AS 41.21.010 - 41.21.040:

23 (8) encourage the organization of state public park and recreational  
24 activities in the local political subdivisions of the state:

25 (9) provide for consulting service designed to develop local park and  
26 recreation facilities and programs:

27 (10) provide clearinghouse services for other state agencies concerned  
28 with park and recreation matters:

29 (11) perform other duties as are prescribed by executive order or by  
30 law:

31 (12) maintain memorials to Alaska veterans located in state parks:

1 [AND]

2 (13) adopt. in accordance with AS 44.62 (Administrative Procedure  
3 Act), regulations governing the use of the Chena River State Recreation Area and  
4 designating incompatible uses within the boundaries of the Chena River State  
5 Recreation Area in accordance with AS 41.21.490; and

6 (14) annually, by the first day of each regular session of the  
7 legislature, submit a report to the legislature on each designation of an  
8 incompatible use under this chapter, or other action, that prohibits or restricts a  
9 traditional means of access across a park, area, or preserve established under this  
10 chapter for a traditional recreational activity on or within the park, area, or  
11 preserve: for each prohibition or restriction, the report must state reasons for the  
12 designation of incompatibility or prohibition or restriction of a traditional means  
13 of access, the specific area of the prohibition or restriction, and the time period  
14 during which the incompatibility or prohibition or restriction is expected to exist:  
15 in this paragraph,

16 (A) "traditional means of access" means those types of  
17 transportation on, to, or in the state land, water, or land and water, for  
18 which a popular pattern of use has developed: the term includes general  
19 or commercial aviation, ballooning, motorized and nonmotorized boating,  
20 snowmachining, operation of all-terrain vehicles, mushing, ~~skiing,~~  
21 snowshoeing, and walking; AM #3 USE OF TRACK MINIMALS

22 (B) "traditional recreational activity" means those personal  
23 or commercial types of activities that people may use for sport, exercise,  
24 subsistence, or personal enjoyment, including hunting, fishing, trapping, or  
25 gathering, and that have historically been conducted as part of an  
26 individual, family, or community life pattern on or in the state land, water,  
27 or land and water.

28 \* Sec. 3. AS 41.21.020 is amended by adding a new subsection to read:

29 (d) Notwithstanding (a)(3) of this section, the department may not manage as  
30 part of a park, area, or preserve established under AS 41.21.110 - 41.21.630, land,  
31 water, or land and water that is not within the boundaries, as designated by the

1 legislature, of the park, area, or preserve.

2 \* Sec. 4. AS 41.21.111 is amended to read:

3 Sec. 41.21.111. Authority to designate Chilkat State Park. The governor  
4 may designate by proclamation the state-owned land and water and all that acquired  
5 in the future by the state, lying within the parcels described in this section, as the  
6 Chilkat State Park. The proclamation may include the entire area or portions of the  
7 area at different times, shall reserve the areas included from all uses incompatible with  
8 their primary function as public recreation land and water, and shall assign them to the  
9 department for control, development, and maintenance. Land covered by AS 41.21.110  
10 - 41.21.113 has a total acreage of 6,056.30 [6,045.45] acres, including approximately  
11 610 acres of federal land, and is described as follows:

12 (1) Township 31 South, Range 60 East, Copper River Meridian U.S.S.  
13 1599: the portions of Sections 6-8 known as Battery Point Light House Reserve:

14 (2) Township 31 South, Range 59 East, Copper River Meridian Section  
15 1, excluding the portions of Lots 2 and 3 within the Chilkoot Inlet Alaska Subdivision  
16 Section 12: NW1/4, NE1/4, SE1/4 Township 31 South, Range 60 East, Copper River  
17 Meridian Section 6: Lots 1-3 Section 7: Lots 1-7 Section 8: Lot 1 Sections 17 and 18  
18 Section 19: NE1/4NW1/4, N1/2NE1/4;

19 (3) Township 31 South, Range 60 East, Copper River Meridian Section  
20 30: Lots 8 and 9 Section 31 Section 32: SW1/4, W1/2NW1/4SE1/4,  
21 W1/2SE1/4NW1/4SE1/4, Lots 9-16 including W1/2SW1/4SE1/4SE1/4;

22 (4) Township 32 South, Range 60 East, Copper River Meridian Section  
23 5: W1/2, W1/2SE1/4 Sections 6-9, 15-17, 21 and 22, excluding Tongass National  
24 Forest; and

25 (5) the following particularly described parcels:

26 (A) approximately 6.49 acres in U.S. Survey 1243, Haines  
27 Recording District, described as: begin on the South line of said survey  
28 South 88 degrees 31 minutes 45 seconds East 1950.84 feet from Southwest  
29 corner (corner 4 M.C.) of said survey, said point being the Southeast  
30 corner of the tract in said survey excepted in the decree in Case No. 68-328  
31 of the Superior Court at Juneau, in which the distance is recited as being

1           29.55 chains (1950.30 feet), run thence North 01 degree 12 minutes 00  
2           seconds East, on the East line of said excepted tract, 1028.77 feet, recited  
3           as 15.59 chains (1028.94 feet) in said decree, to the Northeast corner of  
4           said excepted tract: thence North 88 degrees 31 minutes 45 seconds West  
5           24.38 feet: thence North 01 degree 27 minutes 45 seconds East 1.85 feet:  
6           thence on a 126.92 foot radius curve to the left through a central angle of  
7           72 degrees 04 minutes 30 seconds a distance of 159.57 feet, the chord of  
8           which bears North 34 degrees 34 minutes 30 seconds West 149.27 feet:  
9           thence North 70 degrees 25 minutes 15 seconds West 119.52 feet: thence  
10          on a 208.11 foot radius curve to the right through a central angle of 62  
11          degrees 04 minutes 00 seconds a distance of 225.48 feet, the chord of which  
12          bears North 39 degrees 23 minutes 15 seconds West 214.61 feet to the  
13          South line of "Mud Bay Road": thence North 86 degrees 46 minutes 30  
14          seconds East, on said line of "Mud Bay Road," 230.54 feet: thence South  
15          70 degrees 25 minutes 15 seconds East 90.95 feet: thence on a 326.92 foot  
16          radius curve to the right through a central angle of 71 degrees 57 minutes  
17          00 seconds a distance of 410.55 feet, the chord of which bears South 34  
18          degrees 30 minutes 45 seconds 384.10 feet: thence South 01 degree 27  
19          minutes 45 seconds West 1030.62 feet to the South line of said survey:  
20          thence North 88 degrees 31 minutes 45 seconds West 175.38 feet to the  
21          point of beginning;

22                    (B) approximately .92 acres in Tract "D," C. McRae  
23           Subdivision according to Plat 77 - 12, Haines Recording District, described  
24           as: begin at the Southwest corner of said Tract "D" which is also the  
25           Southwest corner of the North one-half of the Southwest one-quarter of the  
26           Northwest one-quarter of Section 32, Township 31 South, Range 60 East  
27           of the Copper River Meridian, which bears North 01 degree 26 minutes 00  
28           seconds West (Alaska State Plane Grid Bearings) 660.00 feet from the one-  
29           quarter corner on the West line of said section and South 01 degree 26  
30           minutes 00 seconds East 660.00 feet from the North one-sixteenth corner  
31           on the West line of said section, run thence North 01 degree 26 minutes 00

1           seconds East, on the West line of said section, 347.81 feet to the  
 2           Northeasterly line of Chilkat State Park Roadway; thence South 32 degrees  
 3           56 minutes 15 seconds East 70.04 feet to a point of curve; thence Southerly  
 4           on a 0 degrees 58 minutes 58 seconds curve to the right (Radius = 5,829.65  
 5           feet) through an arc of 03 degrees 23 minutes 12 seconds (344.58 feet), the  
 6           cord of which bears South 31 degrees 14 minutes 45 seconds East 344.53  
 7           feet, to the South line of said tract and the South line of the North one-half  
 8           of the Southwest one-quarter of the Northwest one-quarter of said section;  
 9           thence North 88 degrees 34 minutes 00 seconds West 225.56 feet to the  
 10          point of beginning;

11                    (C) approximately 3.44 acres in Tract "E," C. McRae  
 12           Subdivision according to Plat 77 - 12, Haines Recording District, described  
 13           as: begin at the Northwest corner of said tract which is also the one-sixty-  
 14           fourth corner on the West line of said section which bears North 01 degree  
 15           26 minutes 00 seconds East (Alaska State Plane Grid Bearings) 660.00 feet  
 16           from the one-quarter corner on the West line of Section 32, Township 31  
 17           South, Range 60 East of the Copper River Meridian and South 01 degree  
 18           26 minutes 00 seconds West 660.00 feet from the North one-sixteenth  
 19           corner of said section, run thence South 88 degrees 34 minutes 00 seconds  
 20           East, on the North line of said tract which is also the South line of the  
 21           North one-half of the Southwest one-quarter of the Northwest one-quarter  
 22           of said section, 225.56 feet to a point on the Easterly line of Chilkat State  
 23           Park Roadway; thence Southerly on a 0 degrees 58 minutes 58 seconds  
 24           curve to the right (Radius = 5,829.65 feet) through an arc of 01 degree 46  
 25           minutes 48 seconds (181.10 feet), the chord of which bears South 28  
 26           degrees 39 minutes 39 seconds East 181.10 feet, to a point of tangency;  
 27           thence South 27 degrees 46 minutes 15 seconds East 268.21 feet to a point  
 28           of curve; thence on a 14 degrees 16 minutes 06 seconds curve to the right  
 29           (Radius = 401.56) through an arc of 40 degrees 06 minutes 37 seconds  
 30           (281.12 feet), the chord of which bears South 07 degrees 43 minutes 00  
 31           seconds East 275.41 feet to the South line of said tract which is also the

1 South line of the Southwest one-quarter of the Northwest one-quarter of  
2 said section; thence North 88 degrees 15 minutes 00 seconds West, on said  
3 South line, to the Westerly line of Chilkat State Park Roadway; thence  
4 Northerly on a 28 degrees 25 minutes 34 seconds curve to the left (Radius  
5 = 201.56 feet) through an arc of 50 degrees 59 minutes 51 seconds (179.40  
6 feet), the chord of which bears North 02 degrees 15 minutes 15 seconds  
7 West 173.54 feet to a point of tangency; thence North 27 degrees 46  
8 minutes 15 seconds West 268.21 feet to a point of curve; thence on a 01  
9 degree 01 minute 04 seconds curve to the left (Radius = 5.629.65 feet)  
10 through an arc of 02 degrees 50 minutes 00 seconds (278.39 feet), the  
11 chord of which bears North 29 degrees 11 minutes 15 seconds West 278.37  
12 feet to the West line of said section; thence North 01 degree 26 minutes 00  
13 seconds East 14.72 feet to the point of beginning.

AMENDMENT #1

ADOPTED

OFFERED IN THE SENATE

BY SENATOR TAYLOR

TO: CSSB 35(STA)

1 Page 1, line 1, following "Act":

2 Insert "restricting the Board of Fisheries, the Board of Game, the Department of  
3 Fish and Game, and the Department of Natural Resources from enacting any regulation  
4 that prohibits or restricts access;"

5 Page 1, following line 8:

6 Insert new bill sections to read:

7 **\*\* Section 1.** AS 16.05.050 is amended by adding a new subsection to read:

8 (b) Notwithstanding any other provision of law, the commissioner may not  
9 adopt a regulation that prohibits or restricts access to land, water, or land and water.  
10 If the commissioner finds a compelling reason to prohibit or restrict access to land,  
11 water, or land and water, the commissioner shall forward that finding to the governor  
12 for submission to the legislature under the procedure provided in AS 24.08.060 for  
13 the introduction of bills by the governor.

14 **\* Sec. 2.** AS 16.05.251 is amended by adding a new subsection to read:

15 (i) Notwithstanding any other provision of law, the Board of Fisheries may  
16 not adopt a regulation that prohibits or restricts access to land, water, or land and  
17 water. If the board finds a compelling reason to prohibit or restrict access to land,  
18 water, or land and water, the board shall forward that finding to the governor for  
19 submission to the legislature under the procedure provided in AS 24.08.060 for the  
20 introduction of bills by the governor."

21 Page 1, line 9:

22 Delete **\*\* Section 1.** "

23 Insert **\*\* Sec. 3.**

1 Renumber the following bill sections accordingly.

2 Page 2, following line 27:

3 Insert new bill sections to read:

4 \*\* Sec. 4. AS 16.05.255 is amended by adding a new subsection to read:

5 (h) Notwithstanding any other provision of law, the Board of Game may not  
 6 adopt a regulation that prohibits or restricts<sup>(X)</sup> access to land, water, or land and water.  
 7 If the board finds a compelling reason to prohibit or restrict<sup>(X)</sup> access to land, water, or  
 8 land and water, the board shall forward that finding to the governor for submission  
 9 to the legislature under the procedure provided in AS 24.08.060 for the introduction  
 10 of bills by the governor.

11 \* Sec. 5. AS 38.95 is amended by adding a new section to read:

12 Article 7. Restriction on Authority of the Department of Natural Resources  
 13 to Adopt Regulations That Restrict Access.

14 Sec. 38.95.300. Restriction on regulations that restrict access.

15 Notwithstanding any other provision of law, the Department of Natural Resources may  
 16 not adopt a regulation that prohibits or restricts<sup>(X)</sup> access to state land, water,<sup>OR</sup> land and  
 17 water,<sup>(or closes a state recreational or other facility managed by the department)</sup> If  
 18 the department finds a compelling reason to prohibit or restrict<sup>(X)</sup> access to state land,  
 19 water,<sup>of</sup> land and water,<sup>for close a state recreational or other facility,</sup> the department  
 20 shall forward that finding to the governor for submission to the legislature under the  
 21 procedure provided in AS 24.08.060 for the introduction of bills by the governor."

AM  
TO  
AM  
ADOPTED

22 Renumber the following bill sections accordingly.

AM #2 TO AM ADOPTED  
 INSERT "TRADITIONAL" WHERE NEEDED

AMENDMENT

#2

ADOPTED

OFFERED IN THE SENATE  
TO: CSSB 35(STA)

BY SENATOR GREEN

1 Page 1, line 6, following "preserve;":

2       Insert "requiring legislative approval before park land or facilities may be closed  
3 or have access restricted;"

4 Page 4, line 28:

5       Delete "a new subsection"

6       Insert "new subsections"

7 Page 5, following line 1:

8       Insert a new subsection to read:

9       "(e) Except as otherwise specifically provided in this chapter, the department  
10 may not close or restrict <sup>TRADITIONAL</sup> access to land, water, <sup>OR</sup> land and water, ~~or facilities~~ managed  
11 under this chapter unless the closure or restriction (1) is limited to a period of not  
12 more than 90 days in a calendar year, or (2) is submitted to the legislature for  
13 approval at the next regular session of the legislature. If the legislature fails to  
14 approve a closure or restriction under this subsection by the last day of that regular  
15 session, the closure or restriction ends and cannot be enforced after the last day of that  
16 regular session."

AM TO AM

AM # p 4 of Bic

## MEMORANDUM

TO: Jerry Luckhupt  
LAA Legal

FROM: Brett Huber  
Senator Halford's Office

DATE: February 5, 1997

SUBJECT: Amendments to Senate Bill 35 (STA)

=====

Jerry,

I need a Resource CS drafted with the following amendments adopted by the committee earlier today, please.

The first was a verbal amendment so I don't have it in writing for you. On page 4, line 20 after "mushing" insert "use of pack animals".

The other two are amended versions of the amendments you prepared (see attached scribbles). On amendment 0-LS0274\E.1 insert "or" after water on line 10 and delete "or facilities" on the same line.

On amendment 0-LS0274\E.2 on every place you an "x" insert the word "traditional" and every other place it makes sense. (This was obviously a conceptual amendment!!!!) And, on page two, line 16 insert "or "; page 17 delete "or closes a state recreational or other facility managed by the department"; and on line 19 insert "or" after the first "water" and delete "or close a state recreational or other facility".

The committee was busy today. If you have any questions, do not hesitate to call me.

P.S. Hi Jerry from Kelly



# Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3366

Fax: 907-463-3312

## Twentieth Legislature - First Session

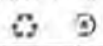
### CS for Senate Bill 35

"An Act relating to the means of transportation used to provide access for the taking of game....."

This legislation has evolved far beyond the original version of SB 35 that dealt with access issues within state parks. The addition of restrictions upon the ability of the Board of Game to professionally manage our state's game resources creates a bill that the Alaska Environmental Lobby cannot support. The provisions within the Committee Substitute's Section 1 significantly hamstring the Board of Game's authority to create controlled use areas as a means to maintain and enhance the quality hunting experience for both Alaskans and visitors. We oppose the amending language of Section 1 of this bill for the following reasons:

- This bill takes land management decisions away from the land management specialists, who have based their decisions on detailed knowledge of a particular area and use patterns desired by the people who live and recreate in the area and use the area for subsistence activities. The local Fish and Game Advisory Committees and the Board of Game are in the most enlightened position to make these decisions after considering public input.
- The Board of Game restricts access only when it is necessary to protect and improve an area. Frequently, the designation of a controlled use area is done to enhance the quality of the hunting experience, an action supported by the hunting community.

OVER



- To mandate that Board of Game decisions be based solely on a nebulous concept of "significant biological harm to the game population" is a total affront to the common sense realization that motorized access should, in certain instances, be restricted to prevent bank erosion, damage to salmon streams, damage to tundra plant species, and damage to other hunters' enjoyment of their own experiences.

*the increase in*  
As legislators continue to limit funding of the Alaska Department of Fish and Game, they are effectively preventing the wildlife biologists there from doing the very studies required by SB 35 to make a determination of "significant biological harm." In essence, this legislation, together with budget cuts to ADF&G, will prevent the Board of Game from using a important game management tool. As a result, this bill will likely contribute to the on-going tension between rural and urban hunters, motorized and non-motorized users, while doing little to truly address the resource allocation issues Alaskans face.

2/5/97

*Steve  
Schneider*



P.O. Box 210430 • Anchorage, AK 99521

Blase A. Burkhardt  
1161 W 79th  
Anchorage, Alaska 99518  
Secretary - Alaska Boating Association

Senator Lyda Green  
Twentieth Legislature - First Session

Re: Senate Bill No. 35

CC: State of Affairs Committee

Dear Senator Green,

I am a lifelong Alaska resident writing in support of your proposed Senate Bill No. 35, referring to classification and restriction of use for public lands and waterways.

I support this bill for two reasons. First, I believe access on public lands and waterways should be open to all traditional means of transportation, and should not be restricted for the exclusive use of a single or specific group of users. More importantly, I believe any such restrictions or classifications which are deemed necessary, should bear legislative approval.

Currently, the Department of Natural Resources and other government agencies have the power to impose restrictions and limitations on the use of public lands and waterways. I believe they do currently have a requirement to seek public testimony on such matters. In the past, however, I have seen overwhelming testimony be disregarded in the final determination. This has happened repeatedly for many years.

Having a public opinion process is meaningless if the opinion is sought simply to comply with "agency requirements". It should be considered seriously by the people we empower as state leaders. It appears to me that many times agencies submit to the public opinion process, only to proceed with actions they were determined to take before the public was heard. This not only contributes to continued apathy of the people, it is inappropriate in our form of government.

The commissioners of these various agencies do not sit in elected positions. For the most part, they can remain in their positions for the better part of their careers, unaffected by the will of the people or popular vote. If they fail to follow the will of the people, there is little recourse for the residents of the state who collectively own these resources.

This bill is appealing, regardless of whether one supports my feelings on unrestricted access. It's basic premise is that land and waterway resources owned by the people of Alaska may only have use restrictions or re-classifications imposed if the legislature approves them

Contrary to the current process, *this bill would place the responsibility for such measures in the hands of those representatives who the people elect.* Even though this may become somewhat of a tedious burden, the legislature is the appropriate avenue.

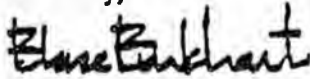
It may appear a somewhat ridiculous analogy, but I would remind you that this country (and others in the world) has fought several wars throughout history. Many of these, in one respect or another, involved freedom of the seas. No country wanted another to impose restrictions on their use of international waters. Likewise, Alaskans are getting tired of state agencies doing basically the same thing. If restrictions are necessary, let the people we elect make those decisions.

In closing I would like to address one argument I am sure will surface during discussions of this bill. In the recent movement to restrict snowmachine access at Curry Ridge, near Denali National Park, public testimony was heard on the matter. Ultimately the closure was not implemented. Opponents of this bill may point to that example as a means of defending the status quo - saying "see - the public opinion process works".

I can tell you from experience there was far less public testimony on that issue than was received on many others. I believe the real reason the closure was not implemented is the fact that you had already pre-filed this bill at that time. I wonder what would have come about had that not been the case.

**I SUPPORT SENATE BILL NO. 35**

Sincerely,



Blase Burkhart

Secretary - Alaska Boating Association

January 17, 1997



RECEIVED

JAN 17 1997

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Alaska Boating Association • P.O. Box 210430 • Anchorage, Alaska 99521

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Senator Lyda Green  
Alaska State Senate  
State Capitol, Interdepartmental Mail Stop: 3101  
Juneau, AK 99801-1182

Dear Senator Green:

This letter is in response to your proposed SB0035 relating to traditional means of access for traditional outdoor uses. At a regularly scheduled meeting of the Alaska Boating Association held on January 16, 1997, our organization voted unanimously to support your efforts and to strongly urge this legislation be passed. This letter is to communicate to you the organizations official position on this legislation.

In addition, many of our individual members will be corresponding with individual letters, POM's, testimony at teleconferences, etc. This bill is important to all members of our organization since traditional means of access is not only important to us for recreational considerations; but, in some cases is vital to some members livelihood.

Thank you for your efforts and continue to keep us informed of any and all related legislative matters we can be effective in supporting.

Yours truly,

Roy J. Burkhart, Legislative Affairs Officer  
Alaska Boating Association  
Voice: (907)495-6337 FAX:(907)495-6338 E-Mail: rjburk@alaska.net

cc: Donald Sherwood, President, Alaska Boating Association  
Senator Drue Pearce, Co-Sponsor, SB0035, Alaska State Senate  
Senator Robin Taylor, Co-Sponsor, SB0035, Alaska State Senate

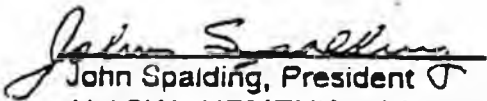


ALASKA AIRMEN'S ASSOCIATION, INC.

## RESOLUTION

The Alaska Airmen's Association hereby resolves that the Alaska Legislature adopt proposed Senate Bill 35 dealing with traditional means of access for traditional outdoor uses which shall include access by small private as well as commercial aircraft.

So Resolved this 22 day of January, 1997

  
John Spalding, President

ALASKA AIRMEN'S ASSOCIATION, INC.

**SERVING GENERAL AVIATION IN ALASKA SINCE 1951**

P.O. Box 241185 Anchorage, Alaska 99524-1185 Tel/Fax 907-272-1251 e-mail [airmens@alaska.net](mailto:airmens@alaska.net)

3038 Donnington Drive  
Anchorage, AK 99504-3847  
333-8347

January 22, 1997

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JAN 23 1997  
ANS U.....

Sen Lyda Green

I would like to thank you for your bill that will insure access to Alaskan resources. Your course of action will right a wrong that has needed fixing for a very long time. Our state resource managers have become puppets for the lower forty eight environmentalists, which have realized that they (the radical environmentalists) have wasted and ruined the lower forty eight, and now they want to lock up OUR State from us. Unfortunately, they are slowly succeeding because of no legal means of stopping the state administrative process. If we don't like the actions of a resource manager, there is nothing that can be done. The public has no recourse. He is not an elected official, and therefore is untouchable by anyone except his fellow green supervisor. Your bill enables a real public input process with people who are countable to their community. You know the idea went the mile last year, only to be conveniently delayed until the legislative session had ended, then after listening and reacting according to the wishes of the green radicals from the land southeast of Juneau, the bill was vetoed. Our Governor showed his true colors.

Please continue your efforts on our behalf. We greatly appreciate your work and diligent efforts. I sorry to say that because of the short notice, I probably will not be able to get off from work to testify at the hearing tomorrow; however, I want you and whomever else necessary to know that I believe that this bill will have a greater impact on the future of Alaska than any other bill that will be considered. It must complete the entire process and become our new way doing business.

Our right to access, utilize, and enjoy the unlimited resources within our State should not and cannot be denied. Just as it is our responsibility to wisely use and protect these same resources. Misuse by an individual or certain groups should be dealt with on a case by case basis, and not punish the whole for the mistakes of a few.

Please continue your outstanding efforts, and if I may be of any assistance, please let me know. Thank you.

BJ  
Randy "Bj" Bjorgan  
W - 269-8978

3038 Donnington Drive  
Anchorage, AK 99504-3847  
333-8347

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January 22, 1997

ANS d.....

Sen Lyda Green

I want to let you know that I wholeheartly support your bill to move the restrictive powers from administrative boards to your legislative body. This will allow us to have an input into the management of our State resources. Thanks for your support of the people who use and enjoy Alaska.

signed

Margaret "Peggy" Bjorgan

W - 264-0514

PUBLIC OPINION MESSAGE

RECEIVED

FROM RONALD R WILSON  
P O BOX 871706  
WASILLA AK 99687  
(907) 373-6700

AKS

TO ALL SENATE RESOURCE MEMBERS

REF SB35 --- AN ACT RELATING TO TRADITIONAL MEANS OF ACCESS

**SUPPORT**

AS A CONCERNED INDIVIDUAL AND A MEMBER OF THE ALASKA BOATING ASSOCIATION I SUPPORT THIS BILL. I FEEL THAT ALL ALASKANS SHOULD HAVE THE RIGHT TO ACCESS PUBLIC LANDS AND WATERWAYS BE IT MOTORIZED OR NON-MOTORIZED HOPEFULLY THE LEGISLATURE WILL ACT MORE RESPONSIBLY THAN DNR WHO DO NOT ACT FOR THE MAJORITY OF ALASKANS

RONALD R WILSON