

S B

64

SENATE COMMITTEE REPORT

DATE: 2/4/97

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 3/11/97

Resources Committee considered

SENATE BILL NO. 64

"An Act relating to the Shuyak Island State Park."

and recommends:

- be replaced with _____ CS SB 64 (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 DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>		<i>Christ. Korb</i>		<input checked="" type="checkbox"/>	
		<i>Loren A. Blum</i>	<input checked="" type="checkbox"/>		
		<i>[Signature]</i>	<input checked="" type="checkbox"/>		
		<i>[Signature]</i>		<input checked="" type="checkbox"/>	<i>Amend. An</i>
		<i>[Signature]</i>			
CHAIR:		CHAIR: <i>Rick Halber</i>	<input checked="" type="checkbox"/>		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):* To (CRA) CS

Department	Date	Zero	Fiscal
DNR / PARKS	1/29		X
DPS / FISH & WILDLIFE	1/31	X	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill



SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT

SB 64, Shuyak Island State Park

I introduced SB 64 at the request of Mayor Jerome Selby and the Kodiak Island Borough Assembly. It presents one of the final actions of a long and complex effort by state and federal authorities and locally affected municipalities to compensate for the effects of the Valdez oil spill. The bill adds specific land and water areas to the Shuyak State Park. Shuyak Island was the first part of the borough that was heavily impacted by the westward streaming oil patches and tar balls from the 1989 accident.

The two large land owners on Shuyak Island are the state and the Kodiak Island Borough. Previous litigation had imposed management restrictions that required the state to maintain wildlife habitat and public recreation values while the borough was partially prohibited from commercial or industrial uses on its lands. In 1984 the Shuyak State Park was established from part of the state's holdings to protect the area's fish and wildlife habitat and public recreation opportunities, while maintaining customary hunting and fishing uses.

One of the provisions of the spill settlement was the establishment of a joint federal and state council to manage remediation and recovery efforts. These responsibilities include the replacement of lost fish and wildlife habitat with the acquisition and protection of other high value habitat. It is for this purpose that the Oil Spill Trustee Council selected the borough's Shuyak Island lands and purchased them in 1996. The final part of this effort is the consolidation of the lands under the protective management of the Shuyak State Park.

SB 62 completes the transaction by formally incorporating all state lands on the island into the Shuyak Island State Park. The expanded park retains the management goals, purposes, and allowed uses of the original park.

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR TAYLOR

TO: CSSB 64(RES) ("B" Version, Dated 3/6/97)

1 Page 3, following line 25:

2 Insert a new bill section to read:

3 **** Sec. 4. AS 41.21.174(b) is amended to read:**

4 (b) The Department of Fish and Game is responsible for the management of
5 fish and game resources in the Shuyak Island State Park, consistent with the sustained
6 yield principle and the purposes and provisions of this chapter. The Board of
7 Fisheries, the Board of Game, and the commissioner of fish and game are responsible
8 for adopting regulations governing uses of fish and game in accordance with AS 16.
9 The fish and game habitat and breeding areas shall be managed to ensure that the fish
10 and game resources of the park continue on a sustained yield basis. In managing the
11 fish and game resources of the Shuyak Island State Park and adopting
12 regulations governing uses of the fish and game, the Board of Fisheries, the
13 Board of Game, or the commissioner of fish and game may not close any fishing,
14 hunting, or trapping within the park unless the closure is

15 (1) approved by the legislature; or

16 (2) temporary and implemented because of a biological
17 emergency."

18 Renumber the following bill sections accordingly.

CS FOR SENATE BILL NO. 64(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR MACKIE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Shuyak Island State Park."

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

3 * Section 1. AS 41.21.170(a) is amended to read:

4 (a) The purpose of AS 41.21.170 - 41.21.178 is to establish, subject to valid
5 existing rights, the state-owned or acquired land and water [UPLANDS AND
6 FRESHWATER BODIES] described in AS 41.21.172 as the Shuyak Island State Park.
7 In accordance with the covenants and deed restrictions set by the Kodiak Island
8 Borough that support the basic tenets of the Alaska lifestyle, the [THE] primary
9 purpose [PURPOSES] of establishing the Shuyak Island State Park is [ARE] to
10 preserve, protect, and enhance traditional public access to and use of the area's
11 natural resources for various activities including [THE AREA'S RECREATIONAL
12 AND SCENIC RESOURCES, TO PROTECT THE AREA'S FISH AND WILDLIFE
13 HABITAT, AND TO PRESERVE AND ENHANCE THE CONTINUED USE OF
14 THE AREA FOR] sport and subsistence hunting, sport, subsistence, and commercial
15 [AND] fishing, and trapping [, AND RECREATIONAL ACTIVITIES].

1 * Sec. 2. AS 41.21.172 is repealed and reenacted to read:

2 **Sec. 41.21.172. Designated state land and water.** The upland, shoreland,
3 tideland, land underlying tidally influenced inland water, and water overlying this land,
4 including both the surface and subsurface estate, owned or acquired by the state within
5 the following described parcels are designated as the Shuyak Island State Park:

- 6 (1) Township 17 South, Range 19 West, Seward Meridian
7 Section 18
8 Section 19
9 Section 30;
10 (2) Township 17 South, Range 20 West, Seward Meridian
11 Section 24
12 Section 25;
13 (3) Township 18 South, Range 18 West, Seward Meridian
14 Section 6
15 Section 7
16 Section 20
17 Section 28
18 Section 29;
19 (4) Township 18 South, Range 19 West, Seward Meridian
20 Section 1
21 Section 2
22 Section 4
23 Section 5
24 Sections 7 - 36;
25 (5) Township 18 South, Range 20 West, Seward Meridian
26 Section 2
27 Section 3
28 Sections 9 - 11
29 Sections 13 - 17
30 Sections 19 - 36;
31 (6) Township 18 South, Range 21 West, Seward Meridian

- 1 Section 36;
- 2 (7) Township 19 South, Range 19 West, Seward Meridian
- 3 Sections 1 - 24
- 4 Sections 26 - 34;
- 5 (8) Township 19 South, Range 20 West, Seward Meridian
- 6 Sections 1 - 30
- 7 Section 32: N1/2
- 8 Sections 33 - 36;
- 9 (9) Township 19 South, Range 21 West, Seward Meridian
- 10 Section 1
- 11 Sections 12 - 14
- 12 Section 24
- 13 Section 25;
- 14 (10) Township 20 South, Range 19 West, Seward Meridian
- 15 Section 4
- 16 Section 5
- 17 Section 6: N1/2, N1/2S1/2;
- 18 (11) Township 20 South, Range 20 West, Seward Meridian
- 19 Section 1: N1/2, N1/2S1/2
- 20 Section 2: N1/2
- 21 Section 3: N1/2.

22 * Sec. 3. AS 41.21.174(a) is amended to read:

23 (a) The state land and water [UPLANDS AND FRESHWATER BODIES]

24 described in AS 41.21.172 are assigned to the department for control, maintenance, and

25 development consistent with the purposes and provisions of AS 41.21.170 - 41.21.178.

26 * Sec. 4. AS 41.21.174(g) is amended to read:

27 (g) Nothing in AS 41.21.170 - 41.21.178 prohibits the Department of Fish

28 and Game from engaging in [STREAM] rehabilitation, enhancement, and development

29 of fish and game habitat under AS 16.05 [AS 16.05.092] on land and water within

30 the Shuyak Island State Park.

31 * Sec. 5. AS 41.21.176 is amended to read:

1 Sec. 41.21.176. Incompatible uses. (a) Except as provided in this section,
2 the [THE] commissioner may designate by regulation incompatible uses within the
3 land and water of the Shuyak Island State Park [PARK UPLANDS AND
4 FRESHWATER BODIES].

5 (b) Use of a weapon in the Shuyak Island State Park shall be allowed at all
6 times for personal protection and may be prohibited only under extraordinary
7 circumstances and only at such times that public safety is threatened [EXCEPT
8 IN UNIQUE AREAS THAT MAY BE CLOSED FOR PURPOSES OF PUBLIC
9 SAFETY BY REGULATION BY THE COMMISSIONER].

10 (c) The [THE REGULATIONS GOVERNING PUBLIC USE OF THE
11 SHUYAK ISLAND STATE PARK SHALL PROVIDE AMPLE ACCESS FOR
12 LEGAL SPORT AND SUBSISTENCE HUNTING AND FISHING, TRAPPING, AND
13 RECREATIONAL USES. EXCEPT TO PROTECT PUBLIC SAFETY THE]
14 commissioner may not restrict lawful [THE EXERCISE OF] sport, [OR] subsistence,
15 or commercial fishing, snort or subsistence [OR] hunting, or trapping permitted
16 under law or under a regulation of the Board of Fisheries or the Board of Game within
17 the Shuyak Island State Park.

18 * Sec. 6. AS 41.21.176 is amended by adding new subsections to read:

19 (d) The commissioner shall allow traditional access to

20 (1) Shuyak Island State Park for recreational purposes and for lawful
21 sport, subsistence, and commercial fishing, sport and subsistence hunting, and trapping;

22 (2) private land within the park.

23 (e) If the commissioner determines that a use is incompatible with one or more
24 other uses in a portion of the Shuyak Island State Park, the commissioner shall state

25 (1) each determination of incompatibility;

26 (2) the specific area where the incompatibility is determined to exist;

27 (3) the time within which the incompatibility is determined to exist; and

28 (4) the reasons for each determination of incompatibility.

29 * Sec. 7. AS 41.21.178 is amended to read:

30 Sec. 41.21.178. Additions to park. Land and water outside of the
31 boundaries established in AS 41.21.172 may be added to the Shuyak Island State

1
2
3

Park only by an act of the legislature. The commissioner may [NOT] acquire land and water within the boundaries of the Shuyak Island State Park except by eminent domain.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB64

Revision Date: _____ Dept Affected: Natural Resources
 Title: An Act relating to the Shuyak Island BRU: Parks & Recreation Management
State Park Component: Parks Management
 Sponsor: Mackie
 Requestor: (S)CRA Component Serial No. 452

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	5.0	7.0				
TRAVEL	5.0	3.0				
CONTRACTUAL						
SUPPLIES	5.0	3.0	4.0	5.0	5.0	6.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	15.0	13.0	4.0	5.0	5.0	6.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	15.0	13.0	4.0	5.0	5.0	6.0
1037 GF/Mental Health						
Other						
TOTAL	15.0	13.0	4.0	5.0	5.0	6.0

Estimate of any current year (FY97) 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)

Day-to-day management of the expanded park can be handled by existing staff and volunteer levels with some additional supply monies to pay for boat gas and other supplies. These costs are necessary for expanded patrol areas. A new park brochure would need to be designed and printed in FY98.

\$10.0 is needed in FY98 and FY99 to revise the Shuyak Island State Park Master Plan. The first year is \$5.0 each for personnel and travel to gather baseline information on use patterns in the new park area. Second year is \$7.0 for personnel and \$3.0 for travel to prepare the written update and hold the requisite public meetings and public comment period leading to adoption of a revised park plan.

Prepared by: Jim Stratton, Director *[Signature]* Phone: 269-6700
 Division: Parks Date: 29-Jan-97
 Approved by Commissioner: *[Signature]* Date: 1-29-97
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: SB 64

Revision Date: _____

Dept. Affected: Public Safety

Title: An Act relating to Shuyak Island State Park

BRU: Fish and Wildlife Protection

Component: Detachments

Sponsor: Rules Committee

Requester: S. CRA

COMPONENT SERIAL NO. 0490

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 96	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 97) impact: \$ -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.)

This Bill will have no impact on this Department's programs or budget.

Prepared By: Lt. Joel L. Hard

Phone: 269-5409

Division: Fish and Wildlife Protection

Date: January 31, 1997

Approved by Commissioner: *DeL Smith*

Date: 1/31/97

Agency: Ronald L. Otte, Department of Public Safety

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SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

SECTIONAL

CS SB 64 (RES), Shuyak Island State Park

Section 1. The purpose section, AS 41.21.170, is amended to broaden the description of lands and waters that constitute the park. It also requires the Division of Parks, Department of Natural Resources to respect the covenant and deed restrictions of Kodiak Island Borough which protect traditional usage of the lands and waters. Sport, commercial, and subsistence fishing are specifically identified as traditional activities.

Section 2. The current description of park lands and waters is replaced with a new description that adds new lands and waters to the existing park lands and waters, including land previously owned by the Kodiak Island Borough.

Section 3. Section 1 conforming amendments.

Section 4. The Department of Fish and Game's management authority within the park is further described and protected.

Section 5. The commissioner's ability to deny the use of weapons and legal hunting and fishing activities is restricted.

Section 6. Adds new subsections that mandate access to park land and private land in holdings. The commissioner is required to specifically justify incompatibility determinations.

Section 7. Section 1 conforming amendment and restatement of eminent domain prohibition.

MEMORANDUM

TO: Senator Halford
FROM: Brett Huber
DATE: 11 March 1997
SUBJECT: SB 64 - Shuyak Island State Park

=====

The Senate Resources Committee heard, and passed out, CSSB 64(RES) on March 10. The Resource CS contained the following changes from the CRA version of the bill:

1) Page 1, lines 7-11

Requires that the DNR, Division of Parks follow the agreement they reached with the Kodiak Island Borough to keep the traditional uses of Shuyak Island as management priorities for the Park. Adds commercial fishing as one of those traditional uses.

2) Page 3, line 26 through Page 4, line 7

Stipulates that any permanent closure of fishing, hunting or trapping within the park is allowable only because of biological emergency.

3) Page 4, lines 8-12

Adds specific language to ensure the Department of Fish and Game's management authority within the park.

4) Page 4, lines 18-21

Restricts the ability of Division of Parks to prohibit the use of a weapon within the Park.

5) Page 4, line 23-30

Adds commercial fishing to protected uses - conforms with the changes in section 1.

6) **Page 4, line 31 through Page 5, line 10**

Requires that the Commissioner, if declaring an incompatible use within the park, to issue specific findings supporting the decision.

7) **Page 5, line 14-15**

Prohibits the Commissioner from acquiring land within the park by eminent domain.



Official Business

ALASKA STATE LEGISLATURE

SENATE RESOURCES COMMITTEE

State Capitol
Juneau, AK 99801

Chairman: Senator Rick Halford
Vice Chair: Senator Lyda Green
Senator Loren Leman
Senator Bert Sharp
Senator Robin Taylor
Senator John Torgerson
Senator Georgianna Lincoln

MEMORANDUM

TO: Jerry Luckhaupt
Legislative Legal Services

FROM: Brett Huber, Aide
Senate Resources Committee

DATE: 10 March 1997

SUBJECT: SB 64 - changes made in Resources Committee

=====

The Senate Resources Committee heard, and passed out, CSSB 64(RES). Please prepare a Resource CS in final incorporating the following changes to the Resource CS (LS0417\B - 3/6/97) you had previously prepared.

The Committee adopted 3 amendments as follows:

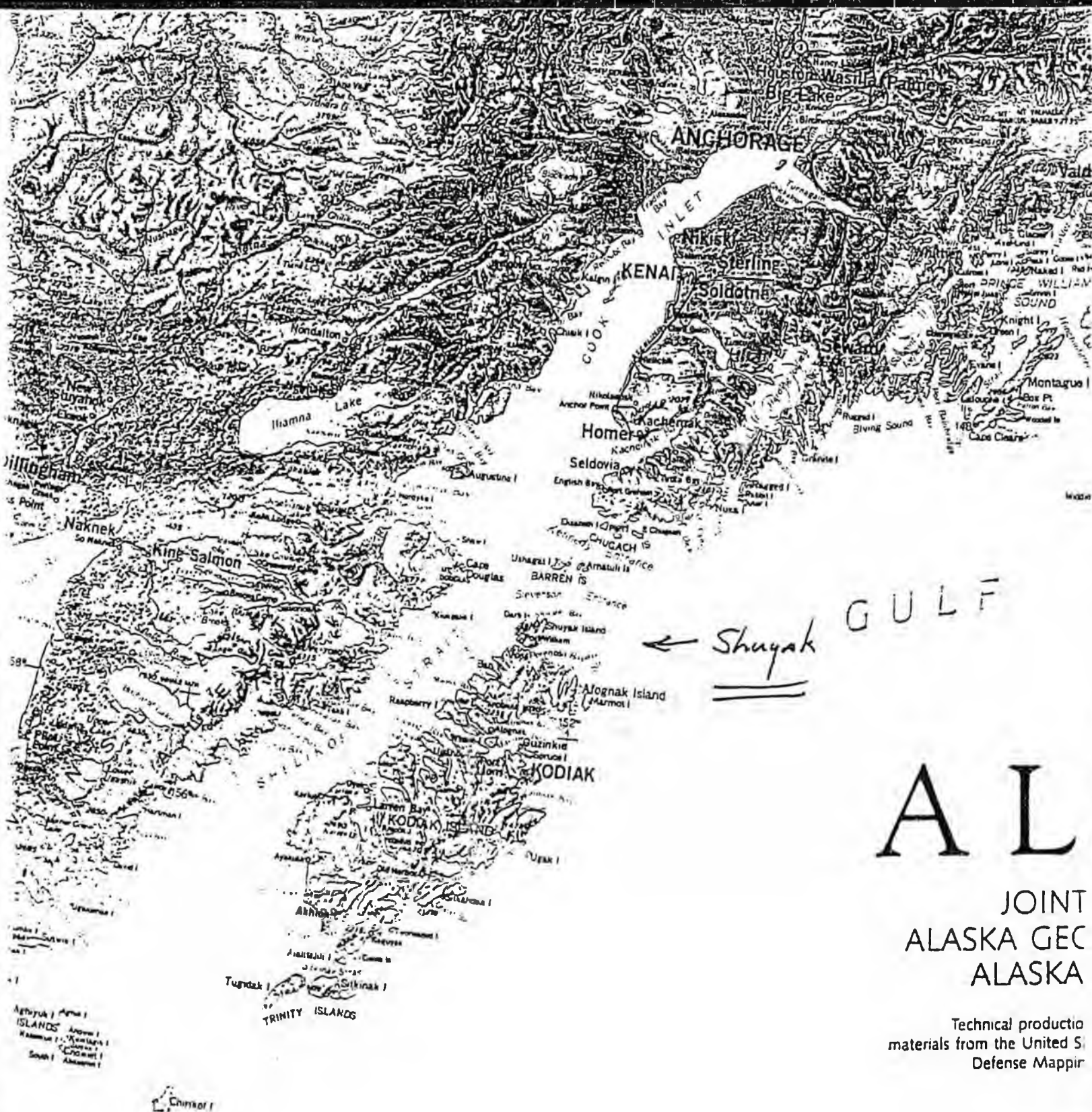
- 1) Page 4, line 5 replace (b) and the following text with:
 - (b) Possession and use of a weapon in the Shuyak Island Park shall be allowed at all times and use of the weapon may be restricted only under extraordinary circumstances and only in such areas where public safety is threatened.
- 2) Page 5, line 1 after "legislature." should read:

The commissioner may not acquire land and water within the boundaries of the Shuyak Island State Park by eminent domain.
- 3) Amendment LS0417\B.1 was adopted with the following changes:

Line 13 after "not" add "permanently"

Line 14 after "is" delete:
 - (1) approved by the legislature; or
 - (2) temporary and

If you have any questions, feel free to call.



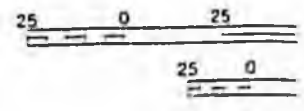
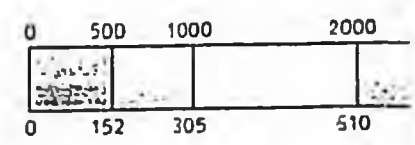
← Shuyak GULF

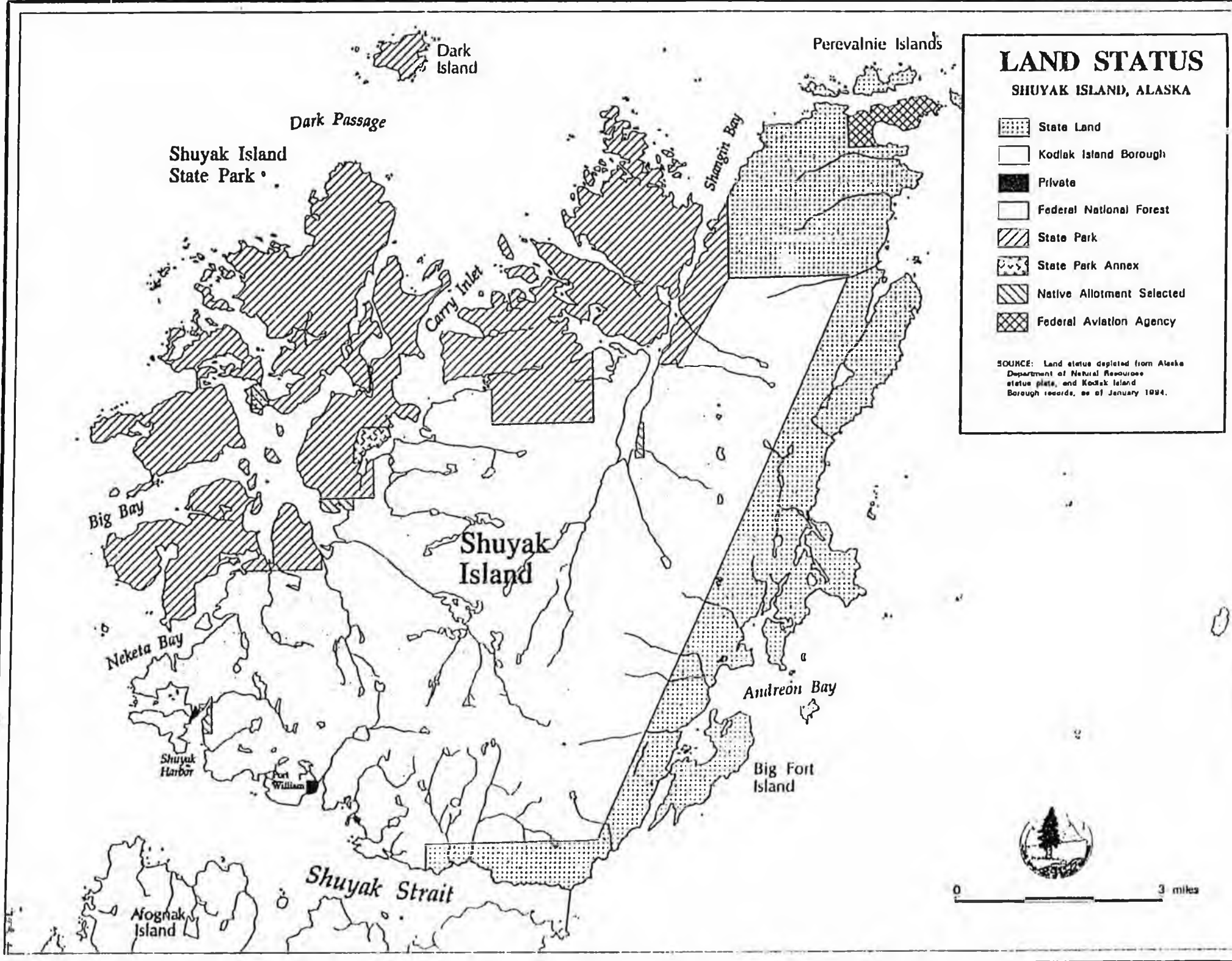
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JOINT
ALASKA GEC
ALASKA

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Defense Mapping Agency

Base Map ©





LAND STATUS

SHUYAK ISLAND, ALASKA

-  State Land
-  Kodlak Island Borough
-  Private
-  Federal National Forest
-  State Park
-  State Park Annex
-  Native Allotment Selected
-  Federal Aviation Agency

SOURCE: Land status depleted from Alaska Department of Natural Resources status plate, and Kodlak Island Borough records, as of January 1984.

0 3 miles



S.M.; then east along the N 1/4th line of Sections 32 and 33 approximately 0.3 miles to the NW 1/4th corner of Section 33, T18S, R19W, S.M.; then northeasterly approximately 1.5 miles to the section corner common to Sections 22, 27, 28, and 21, T18S, R19W, S.M.; then north along the west boundary of Sections 22 and 15, T18S, R19W, S.M., to the point of mean high tide in Shangin Bay. (§ 1 ch 167 SLA 1984)

Sec. 41.21.174. Designation of management responsibility. (a) The state uplands and freshwater bodies described in AS 41.21.172 are assigned to the department for control, maintenance, and development consistent with the purposes and provisions of AS 41.21.170 — 41.21.178.

(b) The Department of Fish and Game is responsible for the management of fish and game resources in the Shuyak Island State Park, consistent with the sustained yield principle and the purposes and provisions of this chapter. The Board of Fisheries, the Board of Game and the commissioner of fish and game are responsible for adopting regulations governing uses of fish and game in accordance with AS 16. The fish and game habitat and breeding areas shall be managed to ensure that the fish and game resources of the park continue on a sustained yield basis.

(c) The department shall consult with the Department of Fish and Game before adoption of regulations governing public use of the Shuyak Island State Park.

(d) The Department of Fish and Game shall consult with the department before adoption of regulations governing fish and game management in Shuyak Island State Park.

(e) The regulations established under this section shall be adopted in accordance with AS 44.62 (Administrative Procedure Act).

(f) The commissioner shall permit reasonable camping within the Shuyak Island State Park on an extended basis on request.

(g) Nothing in AS 41.21.170 — 41.21.178 prohibits the Department of Fish and Game from engaging in stream rehabilitation enhancement and development under AS 16.05.092 on land within the Shuyak Island State Park.

(h) The Department of Public Safety and the Department of Fish and Game shall have necessary access for fish and game management, research, and enforcement purposes. (§ 1 ch 167 SLA 1984)

Editor's notes. — Section 3, ch. 167, SLA 1984, provides: "Subject to the availability of funds, the Department of Natural Resources shall construct public use cabins within the Shuyak Island State Park."

Section 4, ch. 167, SLA 1984, provides: "The commissioner of natural resources shall identify the

boundaries of the Shuyak Island State Park by posting each inland boundary described in AS 41.21.172 as enacted in sec. 1 of this Act or as added under sec. 2 of this Act at its beginning and its end and not less often than each one-eighth of a mile."

Sec. 41.21.176. Incompatible uses. (a) The commissioner may designate by regulation incompatible uses within the park uplands and freshwater bodies.

(b) Use of a weapon in the Shuyak Island State Park shall be allowed except in unique areas that may be closed for purposes of public safety by regulation by the commissioner.

(c) The regulations governing public use of the Shuyak Island State Park shall provide ample access for legal sport and subsistence hunting and fishing, trapping, and recreational uses. Except to protect public safety the commissioner may not restrict the exercise of sport or subsistence fishing or hunting, or trapping permitted under law or under a regulation of the Board of Fisheries or the Board of Game within the Shuyak Island State Park. (§ 1 ch 167 SLA 1984)

Sec. 41.21.178. Additions to park. Land may be added to the Shuyak Island State Park only by an act of the legislature. The commissioner may not acquire land within the boundaries of the Shuyak Island State Park by eminent domain. (§ 1 ch 167 SLA 1984)

Revisor's no. 1984, the follow Island State Par — 36; T18S, R1.

Sec. 41.21.180 — acquired lan purposes of ational and for hunting

(b) The le the Point Br further reco to the reside private land land to seek

Legislative letter of intent (Res)), see 198

Sec. 41.2 water with: 41.21.182 a All state Township Section 1 Section 1 Section 1: A-061005 Section 1 408

Section : Section 1 Section 2 Section right-of-wa

Revisor's numbered in

Sec. 41. land, the purchase (or otherw acquired b State Pari

Revisor's Renumbered

Sec. 41 land and maintena 41.21.180

Exxon Valdez Oil Spill Trustee Council

Restoration Office

645 G Street, Suite 401, Anchorage, Alaska 99501-3451

Phone: (907) 278-8012 Fax: (907) 278-7178



MEMORANDUM

L. B. A. Reyes

TO: Nancy Slagle
Director
Division of Budget Review
Office of Management and Budget

FROM: Molly McCammon
Executive Director

DATE: December 20, 1995

RE: Exxon Valdez Oil Spill RPL ¹⁰⁻⁶⁻⁴⁰¹¹ ~~11-6-6683~~

In accordance with Chapter 1, FSSLA 1992, the Department of Natural Resources requests authority to receive and expend \$42,000,000 from Exxon Valdez oil spill settlement trust funds to purchase 26,665.62 acres of surface estate on Shuyak Island from the Kodiak Island Borough.

This parcel of land was evaluated as part of the Trustee Council's Comprehensive Habitat Protection Process - Large Parcel Evaluation and Ranking (November, 1993) and found to be among the highest ranked parcels in the spill area.

This land provides important habitat for several species of fish and wildlife for which significant injury has been documented. These include harlequin ducks, black oystercatchers, marbled murrelets, pigeon guillemots, river and sea otters, harbor seals, Pacific herring, pink salmon, and Dolly Varden. Restoration of these injured species will benefit from acquisition of this important habitat through protection from activities and disturbances which may adversely affect their recovery. The area has exceptional scenic qualities and supports wilderness-based recreation activities including sport hunting and fishing. The area also possesses significant cultural resource values with fifteen documented historical/archaeological sites.

These lands will be managed by the Alaska Department of Natural Resources, with protection of fish and wildlife habitat and populations as the highest management

Trustee Agencies

State of Alaska: Departments of Fish & Game, Law, and Environmental Conservation
United States: National Oceanic and Atmospheric Administration, Departments of Agriculture and Interior

priority. Under the terms of the agreement, public use of these lands must be allowed and must include sport, personal use, and subsistence hunting, fishing, trapping and recreational uses, consistent with public safety and permitted under law or regulations of the Board of Fisheries and Board of Game. Limited commercial use may be allowed if consistent with state and federal laws and the goals of restoration.

As reflected in the Trustee Council resolution, the Trustee Council's appraisal process resulted in a finding that the Shuyak parcel has a fair market value in the range of \$27 million to \$33.32 million. Taking into account the basis for the various appraisal numbers, the position of the landowner as to its minimum selling price, and given the exceptional restoration values of the Shuyak lands, the Council felt an offer at the upper end of that range was appropriate. The appraised value is based upon a single cash payment of \$33.32 million. Because the payments will be over a period of eight years, in lieu of interest, the purchase price has been adjusted to a total purchase price of \$42 million. It should be noted here that the Kodiak Island Borough commissioned three separate appraisals on their own, and these ranged in value from \$36 million to \$54 million.

There has been widespread support for this acquisition. The Kodiak Island Borough has committed \$3 million to be received through this sale to expand the existing Fisheries Technology Center. This expansion, referred to as the Near Island Research Facility, will provide for the consolidation of federal and state fisheries agencies in Kodiak, which will greatly increase their ability to respond to fisheries management and research needs. Borough Mayor Jerome Selby has provided additional information on this facility in his enclosed letter of endorsement.

Additional documentation supporting this request is also being provided:

- Trustee Council Resolution dated December 11, 1995
- Restoration Benefits Report
- Map
- Appraisal Information (selections)
- Endorsement from Kodiak Island Borough
- Photos
- Letters of support

Since this is a capital project, authority to receive and expend subject to AS 37.25.020 is requested. If you have any questions about this RPL, please do not hesitate to contact me at 278-8012.

Department of Natural Resources

OK - NO 08.55.1.5.2

RPL # 10-6-4011

CIP

Exxon Valdez Trustee Council Projects

\$42,000,000 Exxon Valdez Oil Spill Settlement Trust Funds

Statutory Authority: AS 37.14.405

The Department of Natural Resources requests authority to receive and expend \$42,000,000 in EVOSS trust funds for purchase of approximately 26,665.6 acres of surface estate on Shuyak Island from the Kodiak Island Borough.

The Exxon Valdez Trustee Council adopted a resolution in December, 1995 finding that purchase of the Shuyak Island land is consistent with its final restoration plan for natural resources injured by the Exxon Valdez oil spill. The land was found to include habitat for injured species that will benefit from protection from activities that might adversely impact habitat and water quality. In addition, the Trustee Council found that the land has significant scenic, cultural resource, and recreational values.

An appraisal of the land prepared for the Trustee Council determined that the present fair market value was from \$27,000,000 to \$33,320,000. Appraisals prepared for the Kodiak Island Borough determined the fair market value to range from \$36,000,000 to \$54,000,000. The lowest price the Borough will accept is \$33,320,000, based on a single cash payment. A purchase price of \$42,000,000 has been agreed upon which is to be paid over a seven year period, as follows: \$8,000,000 at closing; \$2,194,266 on October 1, 1996; \$4,000,000 on October 1, 1997; \$4,000,000 on October 1, 1998; \$4,000,000 on October 1, 1999; \$4,000,000 on October 1, 2000; \$4,000,000 on October 1, 2001; and \$11,805,734 on October 1, 2002. This payment schedule is predicated on a rate of approximately 6.45% on the unpaid balance due, assuming a closing date of October 1, 1995. The payment schedule will conform with the cash flow requirements of the EVOSS trust fund, which cannot provide a single cash payment of \$33,320,000.

If the sale is completed, the Kodiak Island Borough will use at least \$6,000,000 of the sale proceeds for construction of its proposed Near Island Research Facility. Remaining sale proceeds will be deposited in the Borough's facilities fund, the earnings on which will provide funding for maintenance of Borough facilities.

✓
Legislative Fiscal Analyst's recommendation: Approval of the request.

To: <i>Dove Loran</i>	From: <i>Cartney</i>
Co. <i>1</i>	Co. <i>Leg. Audit</i>
Dept.	Phone #
Fax # <i>3517</i>	Fax #

The meeting
that evening

at 5:00 p.m.

Chairman Terry Martin RECONVENED the January 8, 1996 meeting of the Legislative Budget and Audit Committee at approximately 5:02 p.m.

REVISED PROGRAMS

10-6-4011 Natural Resources Requesting \$42,000,000 of EVOS Trust Funds to Purchase Shuyak Island. Approved

Sen. Adams MOVED to approve the action and discussion ensued.

Sen. Zharoff explained that the project would entail one month and that the EVOS Trustee Counsel had completed a number of appraisals and approved of the investment for the State. Sen. Zharoff described the area as rich in fish and wildlife. Chairman Martin requested clarification regarding the agreement with the Trustee Counsel, in view that a number of special interest groups in the past have requested State monies to purchase land, and then have subsequently resold the land to another special interest group. Sen. Zharoff expressed his concern that the agreement would also allow for public use to continue.

JEROME SELBY, Mayor of the Kodiak Island Borough, expressed his view that the land acquisition is the best land purchase that the Exxon Valdez Trustee Counsel will consider, and the best investment that the State of Alaska could make with the \$900 million settlement. He further explained that the State of Alaska owns the rest of Shuyiak Island, with the exception of the parcel in question; with the acquisition of the parcel, the State of Alaska will own the entire island, enabling the implementation of a comprehensive land management plan.

In terms of land restoration, Mr. Selby described the parcel as a prima habitat in terms of impact on species damaged by the Exxon Valdez oil spill, thereby maximizing the opportunity for recovery. The parcel is also a heavily used recreational property for the State of Alaska, with a great deal of hunting and fishing activity on Shuyiak Island from residents of Anchorage, the Kenai Peninsula, and Kodiak. Therefore, the acquisition presented a unique opportunity whereby the State may forward the recovery of fish and wildlife species, while encouraging public activities, and implement land management. One third of the island is a state park; one quarter of the island is a state wildlife refuge. The parcel is situated to the southwest of those two parcels and completes the island.

Mr. Selby expressed his view that the acquisition is in full keeping with the Municipal Lands Act as a means to convert a capital asset. He further explained that \$6 million of the funds will be used to develop the Near Island Research Facility, which is a part of a \$16 million dollar facility planned to provide fisheries research in the Gulf of Alaska. Scientists from Federal National Fisheries, Alaska Fish and Game, and the University of Alaska will be co-located into the facility, where they will share research efforts to produce "world class" fisheries data to be used to managed fisheries in the Gulf of Alaska. Mr. Selby expressed his concern that if a research project was not implemented, fisheries in Alaska would face long-term jeopardy. The Near Island facility would be completed at no additional cost to the State. The balance of the funds would then be placed in a Facilities Fund by the Kodiak Island Borough, in order to maintain school facilities, thereby preventing future appropriation requests for the purpose. Mr. Selby reiterated that the acquisition would convert a capital asset, an island parcel worth \$42 million, into programs which would benefit the State in many areas.

Sen. Frank recalled an earlier purchase of property of the Exxon Valdez Trustee Counsel that required its conversion into a State Park, and questioned if there were any such restrictions placed on the State in the current acquisition agreement.

MOLLY MC CAMMON, Executive Director of the Exxon Valdez Oil Spill Trustee Counsel, explained that the current acquisition proposal contained no such language as was put forth in the Seal Bay Acquisition, to which Sen. Frank referred. Ms. McCammon explained the intent of the Department of Natural Resources to manage the Shuyak Island parcel as State land for recreation and wildlife habitat, with no "blackmail clause" stating that if is not placed in a State Park that it will be reverted to the Nature Conservancy or the Federal Government. In response to a question by Sen. Phillips, Ms. McCammon explained that the current acquisition proposal takes into account the legislature's response to language in the prior agreement.

Sen. Davis requested clarification as to whether there was written agreement guaranteeing that the balance of the funds, minus \$6 million for fisheries research, will be placed in a facilities fund, and whether annual earnings on the fund will be known to the public. Mr. Selby explained that the fund has already been established to manage the \$36 million, and that an ordinance restricted spending to interest only for the following uses: maintaining existing facilities, renovating existing facilities, and repaying bonded debt on existing facilities. In addition, he explained that 15% of the interest would return to the principal each year to keep the fund up with inflation. Responding to a question by Sen. Phillips, Mr. Selby explained that the ordinance required a public bill in order to be changed.

In response to a question by Sen. Phillips, Ms. McCammon pointed out that the Counsel was currently committed to spend approximately \$450 million, roughly half of the total settlement. Of that expenditure, close to \$200 million was spent on land acquisition. She further noted that in September, during her presentation on the Counsel's overall work plan, it was discovered that many people desired to spend the entire \$900 million on land acquisition, while others wanted to spend the entire amount on research projects. The Counsel adopted a plan three years ago committing approximately one third of the funds toward habitat protection. Following the commitment, they met with Federal counterparts to determine the priorities for Federal and State acquisitions. She explained that the Counsel continues to proceed according to the restoration plan.

Providing further clarification for Sen. Phillips, Ms. McCammon explained that approximately 60% of the settlement funds would be placed in research efforts. The Counsel has adopted a restoration reserve, in anticipation of further development over the next 15 to 20 years; currently \$36 million are placed in the restoration reserve earning interest, with a commitment of to place \$12 million in the reserve. By the year 2000, this amount would reach a total of \$150 million, and, if inflation-proofed, could provide \$5 to \$6 million a year of revenue for the Counsel.

Addressing Sen. Phillips' concern that the Counsel would once again approach the Legislature to request funding for land acquisition, Ms. McCammon confirmed the Counsel's intention to request a state, joint venture acquisition of a large parcel on Frog Neck Island. In addition, she explained that there are smaller, discreet areas which the Department of Natural Resources would like to use for marine parks and recreation. She also referenced the small parcel program for lands under one thousand acres, through which the Counsel has authorized agencies to make offers on approximately \$16 million's worth of small properties, in areas such as Seward, Palmer, and other locations along the Kenai River, which are key habitat areas. As the transaction progress, the Counsel intends to approach the Legislature for approval.

In response to a question by Sen. Bunde, Ms. McCammon explained the restrictions on the use of the land acquisition. Since the main purpose for the acquisition was to ensure protection of habitation, commercial timber harvest is restricted. Other activities on State Lands, such as hunting and fishing, would still be allowed.

CRAIG TILLERY, Assistant Attorney General, Civil Division, Environmental Section, Alaska Department of Law, responded to Sen. Halford's question about the language of these restrictions by referring to the Conservation Easement, on page 9 of Exhibit B. He also referenced the Warranty Deeds themselves, containing a covenant which states that "public use of land shall

be so guaranteed: hunting, fishing, trapping" etc. Mr. Tillery explained that all the language was subject to existing rights.

In response to a concern voiced by Sen. Phillips regarding restriction of motorized vehicles, Ms. McCammon clarified the use of motorized boats or planes was not prohibited. Mr. Tillery explained that the tide lands are not part of the acquisition, and therefore airplanes or boats would not be able to reach the acquired parcel. All access to the island is salt water borne; no ATV's or snow machines have ever gained access to the area.

Sen. Rieger raised a question as to how heavily the Near Island fisheries research project figured into the Trustees justification for the \$42 million acquisition. Mr. Tillery confirmed that the \$6 million for fisheries technology was a consideration in deciding to proceed with the current acquisition, since the State trustees viewed the research as a valid restoration benefit. Regarding the Federal Trustees, Ms. McCammon explained that they considered the fisheries facility as an added benefit, and not a driving factor in the acquisition. Mr. Tiller noted that the resolution adopted by all EVOS Trustees contains a statement that the Near Island Research Facility will have a positive benefit on natural resources injured by the Exxon Valdez oil spill.

Rep. Bunde expressed his concern regarding inflated appraisals which occurred in the past, and their reflection on future land acquisitions proposals. Rep. Bunde questioned whether the Conservation Easements applied to other state land already in the state park, and Mr. Tiller explained that it the defined terms applied only to the land transferred from the Kodiak Islands.

Chairman Martin raised a concern regarding the cost of managing these lands, and requested a list of long range and immediate cost to the State of land management. Ms. McCammon explained that the majority of current land acquisitions exist within Federal or State land holdings, thereby facilitating better quality and ease of land management. State Trustees believe that the proposed acquisition should be managed by personnel currently managing adjacent state lands, and would not increase management costs.

In response to Chairman Martin's suggestion that a portion of settlement funds be set aside for land management costs, it was pointed out that during 1995 such a motion was made regarding Seal Bay State Park, and was defeated; Federal Trustees did not agree to allocating such funds. The Department of Natural Resources do not believe that there will be any additional management costs; with the proposed acquisition. Mr. Tiller agreed to inquire about language which would guarantee that, in the case that management costs did increase in the future, these monies would come from the settlement fund and not from the state.

In response to a question by Sen. Frank, Jerome Selby clarified that it was a unanimous decision by the Kodiak Island Assembly to approve the acquisition plan. He went on to explain that they did not consider a local designation of the land, because Shuyak is

not located near enough to Kodiak Island in order to adequately manage the land, making it more effective to delegate the management to state park personnel. Sen. Adams questioned whether current cash flow necessitated the payment plan proposed in the RPL, and it was explained that it was difficult to ascertain cash flow demands over the next eight years, and payment over time appears to be a more conservative course. Funds are currently earning interest, and there are plans to move them to a higher interest bearing account.

Rep. Kohring expressed concern over the intent behind the proposed acquisition, whether that be to assist programs for Kodiak Island or for the benefit of the entire State, and questioned whether there was an impending threat to the land or resources of the island that necessitated the proposed purchase. Mayor Selby pointed out that some of the greatest bird losses resulting from the oil spill occurred on the Barons Island to the north of Shuyak Island, making it critical habitat for these bird species, as well as for sea mammals in that area which were hard hit by the spill. From the standpoint of restoration of species damage, the area is a priority.

Regarding the fishing industry, it was pointed out that the area contains excellent salmon streams for preservation. Mayor Selby conceded that while Kodiak Island stood to benefit from the acquisition, the benefits clearly impact the entire state of Alaska. He also pointed out the opportunity for tourism development in the Kodiak archepeglio, which would benefit the economy of Kodiak and the State. In addition, Mayor Selby reiterated the benefit of adequate facilities to fisheries researchers in the State and University. Molly McCammon pointed out that the Seward research facility would be used predominantly for marine mammals, sea bird and fisheries genetics, while the facility in Kodiak is oriented toward commercial fisheries technology, byproducts, processing techniques, etc. Rep. Zharoff pointed out that the research facility in Kodiak is one of only five of its kind in the nation.

Molly McCammon explained that the Trustees have examined the expenditure of funds in order not only to address restoration needs, but to leave lasting benefit to communities within the spill area. Therefore, any major acquisitions and research projects implement not only restoration benefits, but also community benefits.

CARL ROSIER, retired Trustee Member and member of the Alaska Outdoor Council, explained that the Council believes there to be many benefits from the land acquisition. The benefits include state management of lands, hunting and fishing resources, restoration of wildlife species, and conservation of habitat. The Council believes that the benefits will be clarified during the years to come and strongly supports passage of the RPL.

Sen. Adam's MOTION on RPL 10-6-4011 to approve appropriation of \$42 million for the purchase of Shuyak Island was continued. No

objections being raised, the motion was APPROVED by unanimous consent.

Discussion Regarding Anchorage Data Center

Motion to Conduct Special Audit of Department of Information Systems, Amended to include Statewide Analysis of customer service.

Approved.

MARK BOYER, Commissioner, Department of Administration, supported by KAREN MORGAN, Deputy Director of Division of Information Services, and RON HENSLING, addressed concern over the decision to realign data processing in the State of Alaska. He explained that the realignment was a business decision, based on economics, and referenced two studies conducted relating to state data processing, pointing to the direction of consolidating into one center that utilized a client/server format for accessing data.

Mr. Boyer referred to a study reportedly done by an earlier administration, which indicated that a shift away from Anchorage to Juneau would cost millions of dollars; he and his staff have been unable to locate such a study in their research. Rep. Bunde requested that the search for the study be continued and offered the assistance of an outside auditor, questioning the long term operating expense involved in the realignment.

Mr. Boyer pointed out cost savings in the near term, stating that the long term situation was difficult to determine due to the nature of change in the computer industry. In the next fiscal year, the Department of Administration (DOE) anticipates cost savings of nearly \$1 million, manifested through a combination of factors -- not purchasing duplicate licenses, nor additional software caused by redundant operations in Anchorage, in addition to reducing four vacant PCNs in the 1997 budget. A total \$925,000 in anticipated savings would be reflected in the budget introduced by the Governor.

In addition to direct savings, Mr. Boyer noted costs avoided by a change in business methods, such as adding additional disc drive space which would cost \$250,000, and adding uninterrupted power supply to the Anchorage facility which would cost \$150,000, as well as ongoing hardware maintenance costs of \$21,000 per month, and \$48,000 per month of software expenses.

Rep. Bunde expressed concern over the Governor's increase in the budget of \$5.8 million for telecommunications. Chairman Martin clarified that the figure refers to the Department of Administration's increase of software and enhancement of telecommunication.