

**SB**

**140**

**SFIN**

**FILE**

SB 140

was referred to the  
Senate Finance  
Committee

Hearing(s) were held

The bill did not move  
from Committee

*Adapted*

I-LS0784W  
Kurtz ✓  
4/28/99

**CS FOR SENATE BILL NO. 140( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIRST LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATE FINANCE COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to land, relating to the powers and duties of the Department  
2 of Natural Resources, modifying that department's power to control and manage  
3 land within the Hatcher Pass Public Use Area, and authorizing municipal selection  
4 of that land; relating to the Alaska coastal management program; and providing  
5 for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 \* **Section 1.** AS 38.04.005(a) is amended to read:

8 (a) In order to provide for maximum use of state land consistent with the  
9 public interest, it is the policy of the State of Alaska to [PLAN AND] manage state-  
10 owned land [TO ESTABLISH A BALANCED COMBINATION OF LAND  
11 AVAILABLE] for both public and private purposes. [THE CHOICE OF LAND BEST  
12 SUITED FOR PUBLIC AND PRIVATE USE SHALL BE DETERMINED  
13 THROUGH THE INVENTORY, PLANNING, AND CLASSIFICATION PROCESSES

1 SET OUT IN AS 38.04.060 - 38.04.070.]

2 \* Sec. 2. AS 38.04.005(b) is amended to read:

3 (b) In [CLASSIFYING AND] making state land available for private use and  
4 settlement purposes, the director shall consider the natural resources and conditions  
5 present on the land and shall seek to minimize the adverse effect of private settlement  
6 on wildlife, fishery, mineral, timber, and other significant resources of the land; the  
7 director shall also make adequate provision for public open space which is accessible  
8 to communities so that natural areas are easily reached from all communities and  
9 settled areas. The amount of that land shall be sufficient to meet existing and  
10 projected needs for accessible public recreation land. Special care shall be taken to  
11 preserve public access to public water and to retain state ownership of sufficient land  
12 which combine high value for recreation and other public purposes with accessibility  
13 to settled areas. [THIS CLASSIFICATION FOR PUBLIC PURPOSES DOES NOT  
14 CONSTITUTE DEDICATION TO OPEN SPACE, BUT THE DIVISION'S  
15 MANAGEMENT OF LAND SO CLASSIFIED SHALL BE IN A MANNER TO  
16 PRESERVE THE IDENTIFIED VALUES.]

17 \* Sec. 3. AS 38.04.005(e) is amended to read:

18 (e) The involvement of a proximately located municipality and of local  
19 residents is essential in [CLASSIFYING AND] making state land available for private  
20 use and settlement. The director shall, when appropriate, hold public meetings in the  
21 communities most affected by the disposal to solicit the views of the residents of the  
22 communities affected.

23 \* Sec. 4. AS 38.04.010 is amended to read:

24 **Sec. 38.04.010. Public interest in making land available for private use.**

25 (a) The primary public interest in conveying rights to state land surface to private  
26 parties is to make them available to individuals and other persons [FOR DIRECT USE  
27 IN AREAS CLASSIFIED AS SUITABLE FOR THESE PURPOSES]. In making state  
28 land available for private use, the director may [SHALL] seek to guide year-round  
29 settlement to areas where public services already exist, or can be extended with  
30 reasonable economy, or where development of a viable economic base is probable.

31 (b) State land that is located beyond the range of existing schools and other

1 necessary public services, or that is located where development of sources of  
2 employment is improbable, may be made available for seasonal recreational purposes  
3 or for low density settlement. The seasonal recreation use or low density settlement  
4 may [SHALL] have sufficient separation between residences so that public services  
5 will not be necessary or expected. The availability of timber, firewood, and water  
6 resources shall be considered in determining separation between residences. By  
7 considering the availability of timber, firewood, and water under this subsection or in  
8 making any disposal decision, the state does not by virtue of that consideration imply  
9 any right of the person receiving the disposal to an exclusive or other right to the  
10 timber, firewood, or water, that the state will not make any other disposals in the area,  
11 or that any disposals made will be limited in type or any other manner.

12 \* Sec. 5. AS 38.04.020(a) is amended to read:

13 (a) The commissioner shall establish a land disposal bank containing state land  
14 [CLASSIFIED] for disposal into private ownership.

15 \* Sec. 6. AS 38.04.020(c) is amended to read:

16 (c) Land to be retained in state ownership may be classified by the  
17 commissioner into multiple-use management categories under AS 38.05.300. Land  
18 outside a municipality to be retained in state ownership consists of land classified for  
19 retention in state ownership by the commissioner by July 1, 1985. Land conveyed to  
20 the state by the federal government that is to be retained in state ownership consists  
21 of land classified by the commissioner within two years of receipt of tentative approval  
22 or patent, whichever occurs first. State land not classified for retention in state  
23 ownership or selected by a municipality under this section may [SHALL] be classified  
24 and shall be included in the land disposal bank. The commissioner shall ensure that  
25 the bank includes at least 500,000 acres.

26 \* Sec. 7. AS 38.04.020(g) is amended to read:

27 (g) After July 1 of each year, the commissioner shall direct the expenditure of  
28 money appropriated for the disposal of land in response to requests made under (e) and  
29 (f) of this section for the following:

30 (1) land [LAND] designated as suitable for homestead disposal shall  
31 be classified or [AND] surveyed under this chapter and AS 38.05 and made available

1 for staking and lease under AS 38.09; [.]

2 (2) land [LAND] designated as suitable for subdivision and homesite  
3 disposal shall be surveyed, subdivided, [CLASSIFIED,] and disposed of under this  
4 chapter, AS 38.05, and AS 38.08; [.]

5 (3) land [LAND] designated agricultural, commercial, industrial, or  
6 suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057.

7 \* Sec. 8. AS 38.04.020(j) is amended to read:

8 (j) A person or an agency of the state may nominate land retained in state  
9 ownership for inclusion in the land disposal bank or may nominate land in the land  
10 disposal bank for retention in state ownership. The commissioner shall hold public  
11 hearings semiannually to take nominations under this subsection. A transfer of land  
12 from retention in state ownership to the land disposal bank or from the land disposal  
13 bank to retention in state ownership shall be accomplished [THROUGH A  
14 CLASSIFICATION ORDER UNDER AS 38.05.300 AND] with notice under  
15 AS 38.05.945. The commissioner shall make a written determination within six  
16 months after receipt of a nomination if the commissioner determines that the land  
17 nominated will not be included in the land bank or retained in state ownership  
18 [CLASSIFIED OR RECLASSIFIED] as requested.

19 \* Sec. 9. AS 38.04.020(k) is amended to read:

20 (k) The commissioner may withdraw from the land disposal bank state land  
21 that has been offered for disposal but not conveyed within five years after the inclusion  
22 in the land disposal bank. [STATE LAND WITHDRAWN FROM THE LAND  
23 DISPOSAL BANK UNDER THIS SECTION MUST BE RECLASSIFIED UNDER  
24 AS 38.04.065.]

25 \* Sec. 10. AS 38.04.060 is amended to read:

26 **Sec. 38.04.060. Inventory.** (a) The commissioner may [SHALL] prepare and  
27 maintain on a continuing basis an inventory of all state land and water and their  
28 resource and other values, giving priority to areas of potential settlement, economic  
29 development, and critical environmental concern. This inventory shall be kept current  
30 so as to reflect changes in conditions and to identify new and emerging resource and  
31 other values.

1 (b) The commissioner's inventory may [MUST] include land and water under  
2 interagency assignment of land management authority and land and water proposed for  
3 such an assignment. That land and water may [MUST] be reviewed at regular  
4 intervals to analyze current and proposed uses as these uses relate to alternative uses  
5 for all or part of the land and to determine the uses that [WHICH] best provide for  
6 the public interest.

7 (c) As funds and manpower are made available, the commissioner may  
8 [SHALL] provide local and federal governments and major private landowners with  
9 data from the inventory for the purpose of planning and managing the uses of land in  
10 proximity to state land.

11 \* Sec. 11. AS 38.04.065(a) is amended to read:

12 (a) Except as provided in (d) and (h) of this section, to provide an income  
13 base for state government, to facilitate economic development, or to provide for  
14 public discussion of a project or proposal, the commissioner shall, with local  
15 governmental and public involvement under AS 38.05.945, adopt, maintain, and, when  
16 funds allow [APPROPRIATE], revise regional land use plans that provide for the use  
17 and management of state-owned land.

18 \* Sec. 12. AS 38.05.035(f) is amended to read:

19 (f) The director shall grant a preference right to the purchase or lease without  
20 competitive bid of up to five acres of state land to an individual who has erected a  
21 building on the land and used the land for bona fide business purposes for five or more  
22 years under a federal permit or without the need for a permit and, after selection by  
23 the state, under a state use permit or lease, if the business produced no less than 25  
24 percent of the total income of the applicant for the five years preceding the application  
25 to purchase or lease the land. The director shall sell or lease the land at a price  
26 determined by the director to represent the current fair market value of the unimproved  
27 land but in no event less than the cost of administration including survey if required.  
28 If the director determines in a written finding that the purchase or lease of the land  
29 would interfere with public use by residents of the area, the director may condition the  
30 purchase or lease to mitigate the adverse effects on the public use or may reject the  
31 application for the preference right. A lease granted under this subsection may not be

1 for a period in excess of 50 years. [IN THIS SUBSECTION, "BUSINESS  
2 PURPOSES" MEANS A PURPOSE PERMITTED UNDER THE CLASSIFICATION  
3 OF THE LAND AT THE TIME THE LAND WAS ENTERED.]

4 \* Sec. 13. AS 38.05.069(a) is amended to read:

5 (a) On a determination that the highest and best use of unoccupied land is for  
6 agricultural purposes and that it is in the best interests of the state to sell or lease the  
7 land, the commissioner may [SHALL] grant to an Alaska [ALASKAN] resident  
8 owning and using or leasing and using land for agricultural purposes a first option at  
9 the auction to purchase or lease the unoccupied land situated adjacent to land presently  
10 held by the Alaska [ALASKAN] resident for the amount of the high bid received at  
11 public auction. If more than one Alaska [ALASKAN] resident qualifies for a first  
12 option under this section, eligibility for the first option shall be determined by lot, and  
13 the option must be exercised on the conclusion of the public auction. A parcel of  
14 agricultural land sold under this section may not be less than 20 acres, and a parcel of  
15 agricultural land that is acquired by exercise of the option granted in this subsection  
16 may not exceed 320 acres. Agricultural land that is acquired under this section must  
17 be used for agricultural purposes as required by law.

18 \* Sec. 14. AS 38.05.300(a) is amended to read:

19 (a) The commissioner may [SHALL] classify for surface use land in areas  
20 considered necessary and proper. This section does not prevent reclassification of land  
21 where the public interest warrants reclassification, nor does it preclude multiple  
22 purpose use of land whenever different uses are compatible. If the area involved  
23 contains more than 640 contiguous acres, state land, water, or land and water area may  
24 not, except by act of the state legislature, (1) be closed to multiple purpose use, or (2)  
25 be otherwise classified by the commissioner so that mining, mineral entry or location,  
26 mineral prospecting, or mineral leasing is precluded or is designated an incompatible  
27 use, except when the classification is necessary for a land disposal or exchange or is  
28 for the development of utility or transportation corridors or projects or similar projects  
29 or infrastructure, or except as allowed under (c) of this section.

30 \* Sec. 15. AS 38.05.945(b) is amended to read:

31 (b) When notice is required to be given under this section,

1 (1) the notice must contain sufficient information in commonly  
2 understood terms to inform the public of the nature of the action and the opportunity  
3 of the public to comment on it;

4 (2) if the notice is of a preliminary written finding described in  
5 (a)(3)(A) of this section, the department shall give notice at the beginning of the public  
6 comment period for the preliminary written finding, notifying the public of the right  
7 to submit comments; the department shall give notice by

8 (A) publication of a legal notice in a newspaper  
9 [NEWSPAPERS] of statewide circulation and in a newspaper  
10 [NEWSPAPERS] of general circulation in the vicinity of the proposed action  
11 at least once a week for two consecutive weeks;

12 (B) publication of a notice in display advertising form in the  
13 newspapers described in (A) of this paragraph at least once a week for two  
14 consecutive weeks;

15 (C) public service announcements on the electronic media  
16 serving the area to be affected by the proposed action or publication by  
17 electronic means that can be recovered by a member of the public from a  
18 computer data base; and

19 (D) one or more of the following methods:

20 (i) posting in a conspicuous location in the vicinity of  
21 the action;

22 (ii) notification of parties known or likely to be affected  
23 by the action; or

24 (iii) another method calculated to reach affected parties;

25 (3) if the notice is of an action described in (a) of this section, other  
26 than notice of an action under (a)(3)(A) of this section, the department shall give  
27 notice at least 30 days before the action by publication in a newspaper  
28 [NEWSPAPERS] of statewide circulation and in a newspaper [NEWSPAPERS] of  
29 general circulation in the vicinity of the proposed action and one or more of the  
30 following methods:

31 (A) publication through public service announcements on the

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electronic media serving the area affected by the action or publication by electronic means that can be recovered by a member of the public from a computer data base;

(B) posting in a conspicuous location in the vicinity of the action;

(C) notification of parties known or likely to be affected by the action; or

(D) another method calculated to reach affected persons.

\* Sec. 16. AS 38.05.945(c) is amended to read

(c) Notice at least 30 days before action under (a) of this section shall also be given to the following:

(1) to a municipality if the land is within the boundaries of the municipality [, TO A COORDINATING BODY ESTABLISHED BY COMMUNITY COUNCILS IN A MUNICIPALITY IF THE COORDINATING BODY OR A COMMUNITY COUNCIL WITHIN THE AREA SERVED BY A COORDINATING BODY REQUESTS NOTICE IN WRITING: IF THERE IS NO COORDINATING BODY WITHIN THE MUNICIPALITY, NOTICE SHALL BE PROVIDED TO EACH COMMUNITY COUNCIL ESTABLISHED BY THE CHARTER OR ORDINANCE OF THE MUNICIPALITY IF THE LAND IS LOCATED WITHIN THE BOUNDARIES OF THE MUNICIPALITY AND IF THE COMMUNITY COUNCIL REQUESTS NOTICE IN WRITING];

(2) to a regional corporation if the boundaries of the corporation as established by 43 U.S.C. 1606 (sec. 7(a) of the Alaska Native Claims Settlement Act) encompass the land and the land is outside a municipality;

(3) to a village corporation organized under 43 U.S.C. 1607 (sec. 8(a) of the Alaska Native Claims Settlement Act) if the land is within 25 miles of the village for which the corporation was established and the land is located outside a municipality;

(4) to the postmaster of a permanent settlement of more than 25 persons located within 25 miles of the land if the land is located outside a municipality, with a request that the notice be posted in a conspicuous location [;

1 (5) TO A NONPROFIT COMMUNITY ORGANIZATION OR A  
2 GOVERNING BODY THAT HAS REQUESTED NOTIFICATION IN WRITING  
3 AND PROVIDED A MAP OF ITS BOUNDARIES, IF THE LAND IS WITHIN THE  
4 BOUNDARIES].

5 \* Sec. 17. AS 38.08.010(a) is amended to read:

6 (a) The director shall designate [, CLASSIFY] and make available for homesite  
7 entry state land in amounts and at times as required in AS 38.04.020 or as may  
8 otherwise be required by law.

9 \* Sec. 18. AS 38.08.010(b) is amended to read:

10 (b) Land designated [CLASSIFIED] as homesite entry land shall be divided  
11 into parcels not exceeding five acres in reasonably compact form, with boundaries  
12 conforming as nearly as practicable to natural geologic and topographic features.  
13 However a parcel may exceed five acres if the director determines that the larger  
14 parcel is necessary to

15 (1) comply with local zoning ordinances; or

16 (2) permit the design of a subdivision because of topographical features,  
17 soil conditions, on-site sewage disposal requirements, or water drainage or supply  
18 considerations unique to the subdivision.

19 \* Sec. 19. AS 38.08.010(d) is amended to read:

20 (d) The director shall, to as great an extent as possible, designate [CLASSIFY]  
21 land for homesite entry based upon the distribution of population in the state.

22 \* Sec. 20. AS 39.50.200(b)(38) is amended to read:

23 (38) Alaska Coastal Policy Council members and their alternates  
24 (AS 44.37.060) [(AS 44.19.155)];

25 \* Sec. 21. AS 41.21.492(b) is amended to read:

26 (b) Nothing in AS 41.21.491 - 41.21.495 affects the responsibilities of

27 (1) the Department of Fish and Game, the Board of Fisheries, or the  
28 Board of Game under AS 16 and AS 41.99.010;

29 (2) the Department of Environmental Conservation under AS 46.03; or

30 (3) state agencies and municipalities under AS 44.37.080(2)  
31 [AS 44.19.145(a)(11)] and AS 46.40.100.

1 \* Sec. 22. AS 41.21.504(b) is amended to read:

2 (b) Nothing in AS 41.21.500 - 41.21.514 affects the applicability of

3 (1) AS 41.99.010 and AS 16 regarding the responsibilities of the  
4 Department of Fish and Game or the Board of Fisheries or the Board of Game;

5 (2) AS 46.03 regarding the responsibilities of the Department of  
6 Environmental Conservation; or

7 (3) AS 44.37.080(2) [AS 44.19.145(a)(11)] and AS 46.40.100 regarding  
8 the responsibilities of state agencies and municipalities.

9 \* Sec. 23. AS 41.23.130 is amended to read:

10 **Sec. 41.23.130. Hatcher Pass Public Use Area.** The vacant and  
11 unappropriated state-owned land and water and the state land and water acquired in the  
12 future that lie within the boundaries described in this section are designated as the  
13 Hatcher Pass Public Use Area, are reserved for all uses compatible with their primary  
14 function as public use land, and are assigned to the department for control and  
15 management:

16 Township 19 North, Range 1 East, Seward Meridian

17 Section 1: NW1/4NW1/4, NW1/4NE1/4NW1/4, W1/2SW1/4NW1/4,  
18 NE1/4SW1/4NW1/4

19 Section 2: NE1/4, SE1/4NW1/4, SE1/4NE1/4NW1/4,  
20 SE1/4SW1/4NW1/4, SW1/4 exclusive of S1/2SW1/4SW1/4,  
21 NW1/4SE1/4, SW1/4SE1/4, NW1/4SE1/4SE1/4.

22 W1/2NE1/4SE1/4, NE1/4NE1/4SE1/4

23 [SECTION 10: E1/2E1/2]

24 Section 11: W1/2, NW1/4NE1/4, exclusive of Tract A

25 Section 14: W1/2, exclusive of Tract A

26 [SECTION 15: E1/2E1/2]

27 [SECTION 22: E1/2E1/2]

28 Section 23: W1/2

29 Section 26: W1/2SW1/4, SW1/4NW1/4

30 [SECTION 27: E1/2E1/2]

31 Township 20 North, Range 1 East, Seward Meridian

- 1 Section 25: S1/2S1/2SE1/4  
 2 Section 35: SE1/4, SE1/4SE1/4NE1/4  
 3 Section 36: NE1/4, SW1/4, E1/2NW1/4, SW1/4NW1/4,  
 4 SE1/4NW1/4NW1/4, NW1/4SE1/4, NW1/4NE1/4SE1/4,  
 5 NW1/4SW1/4SE1/4  
 6 Township 20 North, Range 2 East, Seward Meridian  
 7 Section 9: E1/2SE1/4, E1/2SW1/4SE1/4, SE1/4SE1/4NE1/4  
 8 Section 10: W1/2SW1/4, E1/2NW1/4, SW1/4NW1/4,  
 9 E1/2NW1/4NW1/4, W1/2NE1/4SW1/4, NW1/4NE1/4,  
 10 NW1/4SW1/4NE1/4  
 11 Section 15: W1/2W1/2NW1/4  
 12 Section 16: SE1/4, E1/2NE1/4, E1/2W1/2NE1/4  
 13 Section 21: E1/2SW1/4, E1/2SW1/4SW1/4, SW1/4SW1/4SW1/4,  
 14 SE1/4NW1/4SW1/4, NW1/4SE1/4, W1/2SW1/4SE1/4,  
 15 NE1/4SW1/4SE1/4, W1/2NE1/4, W1/2NE1/4NE1/4,  
 16 NW1/4SE1/4NE1/4, SE1/4NW1/4, E1/2NE1/4NW1/4,  
 17 SW1/4NE1/4NW1/4  
 18 Section 28: NW1/4, W1/2NW1/4NE1/4, NW1/4SW1/4,  
 19 NW1/4SW1/4SW1/4, NW1/4NE1/4SW1/4  
 20 Section 29: E1/2SE1/4, SE1/4NE1/4, SW1/4SE1/4, S1/2 NW1/4SE1/4,  
 21 NE1/4NW1/4SE1/4, S1/2SW1/4, S1/2NE1/4SW1/4  
 22 Section 30: S1/2S1/2S1/2, S1/2SE1/4  
 23 Section 31: NW1/4, N1/2NE1/4, N1/2S1/2NE1/4  
 24 Section 32: N1/2NW1/4, N1/2SW1/4NW1/4, NW1/4NW1/4NE1/4.

25 \* Sec. 24. AS 41.23.420(d) is amended to read:

26 (d) The provisions of AS 41.23.400 - 41.23.510 do not affect the authority of

27 (1) the Department of Fish and Game, the Board of Fisheries, the  
 28 Board of Game, or the Department of Commerce and Economic Development under  
 29 AS 08.54, AS 16, or AS 41.99.010;

30 (2) the Department of Environmental Conservation under AS 46.03; or

31 (3) state agencies and municipalities under AS 44.37.080(2)

1 [AS 44.19.145(a)(11)] and AS 46.40.100.

2 \* Sec. 25. AS 44.37 is amended by adding new sections to read:

3 **Sec. 44.37.060. Alaska Coastal Policy Council.** (a) There is created in the  
4 Department of Natural Resources the Alaska Coastal Policy Council. The council  
5 consists of the following:

6 (1) nine public members appointed by the governor from a list  
7 composed of at least three names from each region nominated by the municipalities  
8 of each region; the nominees shall be the mayor or member of the assembly or council  
9 of a municipality; one public member shall be appointed from each of the following  
10 general regions:

11 (A) northwest Alaska, including, generally, the area of the North  
12 Slope Borough and the Northwest Arctic Borough;

13 (B) Bering Strait, including, generally, the area of the Bering  
14 Strait regional educational attendance area;

15 (C) southwest Alaska, including, generally, the area within the  
16 Lower Yukon, Lower Kuskokwim, and Southwest regional educational  
17 attendance areas and the Bristol Bay and Lake and Peninsula Boroughs;

18 (D) Kodiak-Aleutians, including the area of the Kodiak Island  
19 and Aleutians East Boroughs and the Aleutian, Adak, and Pribilof regional  
20 educational attendance areas;

21 (E) Upper Cook Inlet, including the Municipality of Anchorage  
22 and the Matanuska-Susitna Borough;

23 (F) Lower Cook Inlet, including, generally, the area within the  
24 Kenai Peninsula Borough;

25 (G) Prince William Sound, including, generally, the area east  
26 of the Kenai Peninsula Borough to 141 West longitude;

27 (H) northern Southeast Alaska, including the area southeast of  
28 141 West longitude and north of 57 North latitude, including the entirety of the  
29 City and Borough of Sitka; and

30 (I) southern Southeast Alaska, including that portion of  
31 southeastern Alaska not contained within the area described in (H) of this

1 paragraph;

2 (2) each of the following:

3 (A) the director of the office of management and budget;

4 (B) the commissioner of commerce and economic development;

5 (C) the commissioner of community and regional affairs;

6 (D) the commissioner of environmental conservation;

7 (E) the commissioner of fish and game;

8 (F) the commissioner of natural resources; and

9 (G) the commissioner of transportation and public facilities.

10 (b) Each public member appointed by the governor under (a)(1) of this section  
11 serves a term of two years and until a successor is appointed and qualified. A public  
12 member may be reappointed.

13 (c) The council shall designate co-chairs, one of whom shall be selected from  
14 among the public members appointed under (a)(1) of this section and one of whom  
15 shall be selected from among the members designated in (a)(2) of this section.

16 (d) Each member of the council shall select one person to serve as a  
17 permanent alternate at meetings of the council. If a member of the council is unable  
18 to attend, the member shall advise the alternate, who may attend and act in the place  
19 of the member. The alternate for a public member appointed under (a)(1) of this  
20 section shall, at the time of the alternate's designation and throughout the period of  
21 service as a permanent alternate, be the mayor or member of the assembly or council  
22 of a municipality within the region from which the permanent member is appointed.  
23 The alternate for the director of the office of management and budget, serving under  
24 (a)(2)(A) of this section, shall be the director's designee within that office. The  
25 alternate for a designated member serving under (a)(2)(B) - (G) of this section shall  
26 be a deputy commissioner of the department or the director of a division in the  
27 department. The names of alternates shall be filed with the council.

28 (e) Four public members and three designated members of the council  
29 constitute a quorum, but one or more of the members designated by the council may  
30 hold hearings. All decisions of the council shall be by a majority vote of the members  
31 present and voting.

1 (f) Members of the council or their alternates are entitled to per diem and  
2 travel expenses authorized by law for members of boards and commissions.

3 (g) If an incumbent public member ceases to meet the qualifications prescribed  
4 in (a)(1) of this section for nomination to the council or if a vacancy exists among the  
5 public members for any other reason except for a vacancy due to the expiration of the  
6 term of a public member, the governor shall, within 30 days of the establishment of  
7 the vacancy by lack of qualification or other reason, make an appointment, to be  
8 immediately effective, for the unexpired portion of the term. An appointment by the  
9 governor made under this subsection to fill an unexpired term of a public member shall  
10 comply with the requirements of (a)(1) of this section; however, the governor may  
11 appoint from qualified persons without soliciting from municipalities nominations of  
12 persons to fill the unexpired portion of the term.

13 **Sec. 44.37.065. Powers of the council.** The council may

14 (1) apply for and accept grants, contributions, and appropriations,  
15 including application for and acceptance of federal funds that may become available  
16 for coastal planning and management;

17 (2) contract for necessary services;

18 (3) consult and cooperate with

19 (A) persons, organizations, and groups, public or private,  
20 interested in, affected by, or concerned with coastal area planning and  
21 management;

22 (B) agents and officials of the coastal resource districts of the  
23 state, and federal and state agencies concerned with or having jurisdiction over  
24 coastal planning and management;

25 (4) take any reasonable action necessary to carry out the provisions of  
26 AS 44.37.060 - 44.37.080.

27 **Sec. 44.37.070. Duties of the council.** In conformity with 16 U.S.C. 1451-  
28 1464 (Coastal Zone Management Act of 1972), as amended, the council shall

29 (1) through the public hearing process and the recording of the minutes  
30 of the hearings, develop guidelines and standards for the preparation of, and approve,  
31 in accordance with AS 46.40, the Alaska coastal management program;

1 (2) establish continuing coordination among state agencies to facilitate  
2 the development and implementation of the Alaska coastal management program; in  
3 carrying out its duties under this paragraph, the council shall initiate an interagency  
4 program of comprehensive coastal resource planning for each geographic region  
5 described in AS 44.37.060(a)(1);

6 (3) assure continued provision of data and information to coastal  
7 resource districts to carry out their planning and management functions under the  
8 program.

9 **Sec. 44.37.075. Council staff.** The council shall use the staff of the office of  
10 coastal management within the Department of Natural Resources in discharging its  
11 powers and duties. The coordinator of the office of coastal management, under the  
12 direction of the council co-chair who is selected from among the members designated  
13 in AS 44.37.060(a)(2), may contract with or employ personnel or consultants the  
14 coordinator considers necessary to carry out the powers and duties of the council.

15 **Sec. 44.37.080. Local job and economic development plans; consistency**  
16 **determinations.** The Department of Natural Resources shall

17 (1) prepare and maintain local job and economic development plans;  
18 and

19 (2) render, on behalf of the state, all federal consistency determinations  
20 and certifications authorized by 16 U.S.C. 1456 (sec. 307, Coastal Zone Management  
21 Act of 1972), and each conclusive state consistency determination when a project  
22 requires a permit, lease, or authorization from two or more state resource agencies.

23 **Sec. 44.37.085. Planning assistance for development and maintenance of**  
24 **district coastal management programs.** The Department of Natural Resources shall  
25 conduct a program of research, training, and technical assistance to coastal resource  
26 districts necessary for the development and implementation of district coastal  
27 management programs under AS 46.40. The technical assistance must include the  
28 direct granting to the coastal resource districts of a portion of any funds received by  
29 the state from the federal coastal zone management program, in amounts to be  
30 individually determined for each coastal resource district by the commissioner of  
31 natural resources. State agencies shall assist the department in carrying out the

1 purposes of this section.

2 \* Sec. 26. AS 44.62.800(1) is amended to read:

3 (1) "agency" means a department, an institution, or a division or other  
4 administrative unit of the executive branch of state government authorized or required  
5 by law to make regulations, except that "agency" does not include

6 (A) a board; a commission; a council, except the Alaska Coastal  
7 Policy Council established in AS 44.37.060 [AS 44.19.155]; an authority; or  
8 a public corporation of the executive branch of state government authorized or  
9 required by law to make regulations; or

10 (B) the Department of Corrections;

11 \* Sec. 27. AS 44.62.800(2) is amended to read:

12 (2) "agency head" means

13 (A) the commissioner or other head of an agency who has the  
14 authority to adopt regulations for the agency; or

15 (B) for the Alaska Coastal Policy Council established in  
16 AS 44.37.060 [AS 44.19.155], the co-chair of the council designated under  
17 AS 44.37.060(a) [AS 44.19.155(c)] from the members listed in  
18 AS 44.37.060(a)(2) [AS 44.19.155(a)(2)];

19 \* Sec. 28. AS 46.40.010(a) is amended to read:

20 (a) The Alaska Coastal Policy Council established in AS 44.37.060  
21 [AS 44.19.155] shall approve, in accordance with this chapter, the Alaska coastal  
22 management program.

23 \* Sec. 29. AS 46.40.094(c)(1) is amended to read:

24 (1) "agency responsible for the consistency determination" means

25 (A) the Department of Natural Resources [OFFICE OF  
26 MANAGEMENT AND BUDGET], for a consistency determination required  
27 to be made under AS 44.37.080(2) [AS 44.19.145(a)(11)]; and

28 (B) the commissioner of the resource agency that coordinates  
29 a consistency review for a proposed use or activity, or for a proposed phase of  
30 a use or activity, when required by this chapter for which a permit, lease, or  
31 authorization is required to be approved or issued only by that resource agency;

1 \* **Sec. 30.** AS 46.40.096(b) is amended to read:

2 (b) If a consistency review is not subject to AS 44.37.080(2)  
3 [AS 44.19.145(a)(11)] because the project for which a consistency review is made  
4 requires a permit, lease, or authorization from only one state agency, that state agency  
5 shall coordinate the consistency review of the project. The state agency shall  
6 coordinate the consistency review according to the requirements of the regulations  
7 adopted by the council under this section.

8 \* **Sec. 31.** AS 46.40.096(f) is amended to read:

9 (f) For a consistency review subject to AS 44.37.080(2) [AS 44.19.145(a)(11)],  
10 the council may, by regulation, limit consideration of a petition under (e) of this  
11 section seeking review of a proposed consistency determination to the extent necessary  
12 to meet the deadlines set by federal law for timely submission of a federal consistency  
13 determination as allowed by 16 U.S.C. 1456.

14 \* **Sec. 32.** AS 46.40.096(g)(2) is amended to read:

15 (2) "reviewing entity" means the

16 (A) Department of Natural Resources [OFFICE], for a  
17 consistency review subject to AS 44.37.080(2) [AS 44.19.145(a)(11)];

18 (B) state agency identified in (b) of this section, for a  
19 consistency review not subject to AS 44.37.080(2) [AS 44.19.145(a)(11)].

20 \* **Sec. 33.** AS 46.40.100(b) is amended to read:

21 (b) A party that is authorized under AS 46.40.096(e)(1) or (g) of this section  
22 may file a petition showing that a district coastal management program is not being  
23 implemented, enforced, or complied with. On receipt of a petition, the council, after  
24 giving public notice in the manner required by (f) of this section, shall convene a  
25 hearing to consider the matter. A hearing called under this subsection shall be held  
26 in accordance with regulations adopted by the council. After hearing,

27 (1) if the petition was filed under AS 46.40.096(e) and the council finds  
28 that

29 (A) the Department of Natural Resources [OFFICE] or the  
30 state agency responsible for coordinating the consistency review has not fairly  
31 considered the petitioner's comments in the development of a proposed

1 consistency determination, the council shall remand the proposed consistency  
2 determination to the Department of Natural Resources [OFFICE], or to the  
3 state agency responsible for coordinating the consistency review, for  
4 preparation of a revised proposed consistency determination that gives fair  
5 consideration to the petitioner's comments;

6 (B) a remand of the consistency determination is not required  
7 under (A) of this paragraph, the council shall dismiss the petition;

8 (2) if the petition was not filed under AS 46.40.096(e), the council may  
9 order that the coastal resource district or a state agency take any action the council  
10 considers necessary to implement, enforce, or comply with the district coastal  
11 management program.

12 \* Sec. 34. AS 46.40.120(b) is amended to read:

13 (b) The commissioner of natural resources [COMMUNITY AND  
14 REGIONAL AFFAIRS] may, after public hearings held in the area affected,  
15 consolidate two or more regional educational attendance areas as a single coastal  
16 resource service area

17 (1) if a substantial portion of the coastal area contains land and water  
18 area owned by the federal government over which it exercises exclusive jurisdiction  
19 or land held in trust by the federal government for Alaska Natives over which the state  
20 would not exercise control as to use; or

21 (2) if, after giving due consideration to the standards applicable to  
22 incorporation of borough governments and the likelihood that a borough will be  
23 incorporated within the area, the commissioner determines that the functions to be  
24 performed under this chapter could be undertaken more efficiently through the  
25 combination of two or more regional educational attendance areas as a single coastal  
26 resource service area.

27 \* Sec. 35. AS 46.40.120(d) is amended to read:

28 (d) For purposes of coastal zone management only, the commissioner of  
29 natural resources [COMMUNITY AND REGIONAL AFFAIRS] may, after public  
30 hearings held in the regional educational attendance area affected, divide an existing  
31 regional educational attendance area into no more than three coastal resource service

1 areas according to geographic, cultural, economic, environmental, or other features  
2 relevant to coastal management planning. However,

3 (1) each coastal resource service area formed by dividing an existing  
4 regional educational attendance area must contain at least one first class city or home  
5 rule city;

6 (2) a city within a coastal resource service area formed by dividing an  
7 existing regional educational attendance area may not elect to exclude itself from the  
8 coastal resource service area; and

9 (3) a coastal resource service area formed before June 1, 1980, may not  
10 be divided for coastal management planning purposes.

11 \* Sec. 36. AS 46.40.140(c) is amended to read:

12 (c) The commissioner of natural resources [COMMUNITY AND  
13 REGIONAL AFFAIRS], after consultation with residents of a coastal resource service  
14 area, may divide a service area into sections only for the purpose of nominating and  
15 electing board members. Division of a service area into sections for the purpose of  
16 nomination and election shall be in accordance with the provisions of AS 14.08.051(a).  
17 Division may be proposed in the petition submitted under AS 46.40.130(a)(1), in the  
18 resolution submitted under AS 46.40.130(a)(2), at the direction of the council under  
19 AS 46.40.130(a)(3), or may be proposed at any time by the members of the coastal  
20 resource service area board. If proposed by the board, the division of the service area  
21 into sections is subject to approval of a majority of the qualified voters voting on the  
22 question in the coastal resource service area at the next regular election or at a special  
23 election called for that purpose and, if approved, takes effect at the next regular  
24 election of members of the coastal resource service area board.

25 \* Sec. 37. AS 46.40.170(a) is amended to read:

26 (a) If residents of a coastal resource service area reject organization of the  
27 service area at an election called for the purpose and the council finds, after public  
28 hearing, that major economic development activity has occurred or will occur within  
29 the service area, the council may direct the department [DEPARTMENT OF  
30 COMMUNITY AND REGIONAL AFFAIRS] to prepare and recommend for  
31 consideration by the council and for submission to the legislature a district coastal

1 management program for the service area.

2 \* **Sec. 38.** AS 46.40.170(b) is amended to read:

3 (b) At the request of the council, the department [DEPARTMENT OF  
4 COMMUNITY AND REGIONAL AFFAIRS] shall complete the district coastal  
5 management program in accordance with this chapter and the guidelines and standards  
6 adopted by the council for a coastal resource service area that [WHICH] has been  
7 organized but [WHICH] has failed to make substantial progress in the preparation of  
8 an approvable district coastal management program within 18 months of certification  
9 of the results of an organization election or [WHICH] has not submitted for approval  
10 to the council a program within 30 months of certification of the results of its  
11 organization election. Preparation of the program shall be conducted in consultation  
12 with the coastal resource service area and shall, to the maximum extent consistent with  
13 this chapter, reflect the expressed concerns of the residents of the service area.

14 \* **Sec. 39.** AS 46.40.180(a) is amended to read:

15 (a) Before adoption by a coastal resource service area board, or by the  
16 department [DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS] under  
17 AS 46.40.170, a district coastal management program shall be submitted for review to  
18 each city or village within the coastal resource service area. The council of a city or  
19 traditional village council shall consider the program submitted for review. Within 60  
20 days of submission, the council of a city or traditional village council shall either  
21 approve the program or enter objections to all or any portion of the program.

22 \* **Sec. 40.** AS 46.40.180(d) is amended to read:

23 (d) For purposes of this section, "village" means an unincorporated community  
24 where at least 25 persons reside as a social unit [AS DETERMINED BY THE  
25 DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS].

26 \* **Sec. 41.** AS 46.40.190(a) is amended to read:

27 (a) A city within the coastal area that [WHICH] is not part of a coastal  
28 resource service area shall be included for purposes of this chapter within an adjacent  
29 coastal resource service area unless its governing body, by resolution adopted by a  
30 majority of its membership, chooses to exclude the city from an adjacent coastal  
31 resource service area and a copy of the resolution is filed with the commissioner of

1           natural resources [COMMUNITY AND REGIONAL AFFAIRS].

2           \* Sec. 42. AS 46.40.210(5) is amended to read:

3                           (5) "department" means the Department of Natural Resources  
4                           [COMMUNITY AND REGIONAL AFFAIRS];

5           \* Sec. 43. AS 38.05.945(h); AS 44.19.145(a)(2), 44.19.145(a)(11), 44.19.155, 44.19.160,  
6           44.19.161, 44.19.162; AS 44.47.095; and AS 46.40.210(6) are repealed.

7           \* Sec. 44. AVAILABILITY OF HATCHER PASS PUBLIC USE AREA LAND FOR  
8           GENERAL GRANT LAND ENTITLEMENT OF THE MATANUSKA-SUSITNA  
9           BOROUGH. Notwithstanding the reservation of land, designation of the reserved land as the  
10          Hatcher Pass Public Use Area, and assignment of control and management of the land to the  
11          Department of Natural Resources made by AS 41.23.130, and notwithstanding selection  
12          procedures applicable to municipal general grant land entitlements under AS 29.65.010 -  
13          29.65.140, the following land within Township 19 North, Range 1 East, Seward Meridian, that  
14          is part of the Hatcher Pass Public Use Area is available for selection and conveyance to the  
15          Matanuska-Susitna Borough to fulfill the borough's general grant land entitlement under  
16          AS 29.65.010 - 29.65.140:

17                          Section 2: S1/2SW1/4SW1/4

18                          Section 10: E1/2E1/2

19                          Section 11: Tract A

20                          Section 14: Tract A

21                          Section 15: E1/2E1/2

22                          Section 22: E1/2E1/2

23                          Section 27: E1/2E1/2.

24           \* Sec. 45. TRANSITIONAL PROVISIONS. (a) Sections 20 - 43 of this Act do not  
25          terminate the existing Alaska Coastal Policy Council or affect the terms of its current  
26          members; sections 20 - 43 of this Act move the existing Alaska Coastal Policy Council from  
27          the Office of the Governor to the Department of Natural Resources.

28                          (b) Litigation, hearings, investigations, and other proceedings pending under a law  
29          amended or repealed by secs. 20 - 43 of this Act, or in connection with functions transferred  
30          by secs. 20 - 43 of this Act, continue in effect and may be continued and completed  
31          notwithstanding a transfer or amendment or repeal provided for in secs. 20 - 43 of this Act.

1 Certificates, orders, guidelines, approvals, and regulations issued or adopted under authority  
2 of a law amended or repealed by secs. 20 - 43 of this Act remain in effect for the term issued,  
3 or until revoked, vacated, or otherwise modified under the provisions of secs. 20 - 43 of this  
4 Act. Contracts, rights, liabilities, and obligations created by or under a law amended or  
5 repealed by secs. 20 - 43 of this Act, and in effect on the effective date of this bill section,  
6 remain in effect notwithstanding secs. 20 - 43 of this Act taking effect. Records, equipment,  
7 appropriations, and other property of agencies of the state whose functions are transferred  
8 under secs. 20 - 43 of this Act shall be transferred to implement the provisions of secs. 20 -  
9 43 of this Act.

10 \* Sec. 46. Sections 20 - 22 and 24 - 45 of this Act take effect June 15, 1999.

11 \* Sec. 47. Section 23 of this Act takes effect on the date of conveyance by the Department  
12 of Natural Resources to the Matanuska-Susitna Borough of all land described in sec. 44 of this  
13 Act. The commissioner of natural resources shall promptly notify the revisor of statutes of  
14 the conveyance made by the Department of Natural Resources to the Matanuska-Susitna  
15 Borough of land described in sec. 44 of this Act.

**SB 140: Impacts to the Coastal Program**  
**Prepared by the Division of Governmental Coordination**  
**April 19, 1999**



The Knowles Administration and the Coastal Policy Council oppose SB 140.

- The ACMP is a well-established program that has been located in the Office of the Governor since 1979. DGC's implementation has been evaluated several times in recent years. A 1994 Division of Legislative Audit report found "DGC appears to be the most appropriate agency for administering the ACMP." Further, the report states that "DGC's placement in the Office of the Governor provides a more objective centralized oversight and coordination function for all state agencies." In addition, DGC received an excellent evaluation from the federal Office of Ocean and Coastal Resource Management as part of their triennial section 312 evaluation under the Coastal Zone Management Act.
- The proposed bill does not result in any saving to State general fund dollars, and may result in increased costs associated with start-up of the program by new staff in a different agency. Short-term inefficiencies are also anticipated as a result of the change in lead agency. A program amendment would need to be prepared and submitted to NOAA OCRM. Delays and/or decreases in federal funds could impact not only State agency functions, but funding that is provided to the coastal districts and communities of the state.
- The ACMP is a networked program that relies on existing authorities. While all of the resource agencies conduct permitting activities and some have planning functions, each has unique mandates and none match the mandates of the ACMP.
- The sponsor statement suggests that the ACMP can be moved to DNR because both agencies have similar planning and permitting functions. As described above, not only are the agency mandates different, but DGC has other responsibilities with which DNR staff are not familiar, including developing state positions on coastal resource issues and providing conflict resolution as needed during planning and permitting. In addition, although DNR manages activities on state land, the scope of the ACMP is broader in that it includes activities on private and federal lands.

# STATE OF ALASKA

## OFFICE OF THE GOVERNOR

TONY KNOWLES, GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET  
DIVISION OF GOVERNMENTAL COORDINATION

☐ SOUTHCENTRAL REGIONAL OFFICE  
3601 "C" STREET, SUITE 370  
ANCHORAGE, ALASKA 99503-5930  
PH: (907) 269-7470/FAX: (907) 561-6134

☐ CENTRAL OFFICE  
P.O. BOX 110030  
JUNEAU, ALASKA 99811-0030  
PH: (907) 465-3562/FAX: (907) 465-3075

☐ PIPELINE COORDINATOR'S OFFICE  
411 WEST 4TH AVENUE, SUITE 2C  
ANCHORAGE, ALASKA 99501-2343  
PH: (907) 271-4317/FAX: (907) 272-0690

April 19, 1999

The Honorable Randy Phillips  
State Capitol  
Juneau, AK 99801

Re: SB 140, "An Act relating to the powers and duties of the Department of Natural Resources and to the Alaska coastal management program."

Dear Senator Phillips:

I am writing to respond to the concepts discussed in the draft mission analysis and sponsor statement we received from your office regarding SB 140. There are a number of issues that require further explanation. These issues are summarized in bold text, below.

**The draft mission analysis fails to recognize the unique responsibilities of DGC.**

The Division of Governmental Coordination (DGC) FY2000 Mission is to provide access to uniquely qualified individuals, information, technical expertise and federal funding to resolve resource development and permitting issues. In addition to the permit coordination noted in your sponsor statement, DGC funds and facilitates coastal district program development and develops state positions on coastal resource issues, resolving conflicts among a variety of stakeholders in many different forums.

**Coastal district maps are distinct from DNR area plan maps.**

Coastal district maps are developed by a coastal district (a municipality or coastal resource service area) and submitted to DGC for Coastal Policy Council and federal approval as part of a district program. These maps depict, at a minimum, the district boundary and the coastal zone boundary. These maps are companion to district programs, which contain enforceable policies designed to balance conflicting uses and activities in the coastal zone. The district policies are applied to avoid, minimize or

mitigate impacts to coastal resources within the district's coastal zone. Some district maps may also designate subsistence zones or recreation areas in which more specific policies apply. They do not determine the locations in which various activities are permitted.

**SB 140 does not result in any efficiencies by combining the Division of Governmental Coordination (DGC) with the Division of Land, Department of Natural Resources (DNR).**

When we responded to your initial request for information, we stated that "efficiencies may be gained if the director and administrative staff were fully or partially absorbed by an existing structure." However, after further consultation with DNR, we must conclude that these efficiencies cannot be realized. Due to the federal grant administration and coordination functions of DGC and the lack of administrative staff within DNR, we anticipate the need to retain administrative staff to carry out the functions of the ACMP.

Indeed, efficiency in the delivery of program services is anticipated to decrease in the short term, with little or no gain in the long term. There will be inefficiencies associated with the start-up of the ACMP with new staff who must carry out new assignments within a new agency structure. DNR/Div. of Lands experience is primarily in the management of state-owned lands. DNR is not experienced in resolving conflicts where private and federal land interests are involved, nor does the agency have experience with grant administration.

Short term inefficiencies are anticipated as a result of the change in lead agency. A program amendment would need to be prepared and submitted to NOAA/OCRM. Delays and/or decreases in federal funds could impact not only state agency functions, but funding that is provided to local communities through the ACMP.

**DGC and DNR tasks are distinct.**

DNR's central mission is to plan for and manage state-owned lands. In contrast, DGC administers a program that manages coastal uses and activities on private and federal land, as well as state land. DGC brings all the players together to ensure that certain activities on federal, state and private lands are consistent with the statewide standards and the district enforceable policies of the Alaska Coastal Management Program.

Because Alaska does not have a coastal permit, consistency is implemented through existing agencies authorities. In order to avoid duplication, DNR, DFG and DEC (as well as affected coastal districts) review and comment on proposed projects with respect to the standards and enforceable policies within their area of expertise. DGC disseminates information, establishes the review schedule, receives comments, renders the state position, and mediates conflict among the parties with standing. This interagency coordination is dissimilar from the tasks currently carried out by DNR.

**A networked coastal program must interact with numerous staff within the permitting agencies and coastal districts.**

Your statement indicates the number of staff with whom the DGC interacts. This level of interaction is necessary to avoid duplication in the coastal program. As explained above, the ACMP is a networked program that relies upon existing authorities. During consistency reviews and coastal program development, DGC contacts a variety of agency personnel as are best suited to the project or coastal program under review.

The agency positions indicated in your statement are not solely dedicated to ACMP tasks. Instead, these are DGC's contacts throughout state government, who participate in coastal management during their routine permitting and planning assignments. In exchange, their permitting tasks are counted as state match for the federal dollars received. Additional tasks are federally funded through a reimbursable services agreement between DGC and DNR. This networked structure within the ACMP achieves the most federal dollar "bang" for state dollar "buck." Relocating the program within DNR would not result in fewer staff positions.

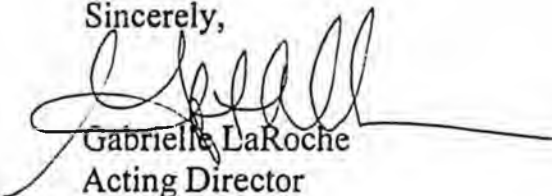
**DGC does not cost \$2,812,00 in federal funds.**

In FY99, DGC received \$2,701,600 in federal funds. Of this total, state agencies participating in the program received \$932,700, coastal districts received \$1,161,400, and the Coastal Policy Council and DGC received \$607,500. Additionally, state general funds allocated to DGC are used to offset match requirement to coastal districts, another example of the ACMP structure making the most of federal dollars.

### **Summary**

The Division of Governmental Coordination appreciates the opportunity to work with your office on issues of importance to the Alaska Coastal Management Program. If you have any questions about this response, please do not hesitate to call.

Sincerely,



Gabrielle LaRoche  
Acting Director

cc: Coastal Districts  
Coastal Legislators



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL OCEAN SERVICE  
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT  
Silver Spring, Maryland 20910

APR 19 1999

Honorable Rick Halford, Chair  
Senate Resources Committee  
Alaska State Capitol  
Juneau, AK 99801

Dear Senator Halford:

I am writing to express my concerns regarding SB 140, which changes the lead agency for the Alaska Coastal Management Program (ACMP) from the Division of Governmental Coordination (DGC) to the Department of Natural Resources (DNR). As the Federal agency charged with administering the Federal Coastal Zone Management Act of 1972, as amended, (CZMA) the Office of Ocean and Coastal Resource Management (OCRM) views this move, which requires significant public discussion and review prior to legislative action, as a major change to the Federally approved ACMP. As we were only made aware of the Bill and the hearings late last week, our comments are preliminary in nature. We would also be available to respond to any questions regarding the CZMA and its implementing requirements.

**Adequate public participation:** The CZMA contains specific requirements regarding public involvement in program development, implementation and program changes. It appears that the public has not had adequate time to review the Bill and understand the rationale and consequences of the proposed change. We would urge you to provide adequate time at the scheduled hearings to consider the comments of affected local communities and various interests.

**Federal requirements for lead agency:** The Federal regulations for coastal management program (CMP) development include factors for selecting state CMP lead agencies. In the case where states rely on a "network" of state and local planning and permit programs, state agencies with strong coordination and conflict resolution functions are more often than not the best suited to be the lead agency. The DGC, as its name connotes, is well suited to coordinate the full range of ACMP lead agency activities.

**The objectiveness of ACMP consistency review may suffer:** The success of the state consistency process (6 AAC 50) is due largely to the objective facilitation role of the DGC. External parties could question whether the DNR would be as objective as the DGC and could provide the balance needed as promoter and State permit agency for major oil and gas, mining, forestry resource development. Such a change might adversely affect efficient and effective decision making in these areas. In addition, such an impact on the ACMP's decision making



ability in these areas raises the question as to whether the ACMP would continue to adequately consider the national interest in these areas, which is a requirement for continued Federal approval of the ACMP pursuant to the CZMA.

**Lack of clear justification for the change:** Several recent Federal evaluations of the ACMP, including OCRM's recent section 312 evaluation and the two year comprehensive ACMP Assessment, did not find any need for change in the lead agency. Our review of the draft "Mission Analysis," and "Sponsor Statement" provided with the Bill suggests that a more detailed analysis of the functions of each agency is necessary to form a basis for discussion and decisions of the public policy implications of the change.

**Moving ACMP to DNR may not result in a cost savings:** Based on the limited information provided us, it is unclear whether moving the ACMP to the DNR will result in any cost savings due to dissimilar functions of each agency. For example, the objectives and areas covered by local coastal district planning and management activities required under the coastal program are different than the objectives and areas subject to the Title 38 public lands planning undertaken by the DNR. In addition, we would note that negotiations regarding the State's FY2000 Federal grant indicate that available federal funds are barely adequate to support the major State agency and local coastal district components of the ACMP program. Finally, we should note that Federal funds can not be used to supplant state funds in this matching grant program.

**Effect of agency change on FY 2000 award to the State:** We are currently completing the processing of the Alaska FY2000 award, scheduled to be awarded on July 1, 1999. The CZMA requires that we approve changes to State CZM programs prior to our funding of such changes. Therefore, if there is a change in the designated lead agency for the ACMP, we would need to work out a mechanism to cover the 4-6 month period that would be necessary for OCRM to review this change. Most likely we would condition the cooperative agreement to allow expenditure of a portion of the Federal funds for activities as specified in the application submitted by DGC, and then address the use of the remaining funds upon completion of our amendment review.

Sincerely,



*for* Joseph A. Uravitch, AICP  
Chief, Coastal Programs Division

cc: Office of the Governor  
DGC

# FISCAL NOTE

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

**BILL NO. SB 140**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Office of the Governor  
 Title An Act relating to the powers & duties of the BRU Governmental Coordination  
 Dept of Natural Resources & to the Alaska Coastal Management Component Governmental Coordination  
 Sponsor Senate Finance  
 Requester \_\_\_\_\_ Component Serial No. 18

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	(1,071.6)	0.0	0.0	0.0	0.0	0.0
Travel	(35.0)	0.0	0.0	0.0	0.0	0.0
Contractual	(157.6)	0.0	0.0	0.0	0.0	0.0
Supplies	(2.6)	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>(1,266.8)</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>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	(1,266.8)	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>(1,266.8)</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 (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time	-24					
Part-time						
Temporary	-2					

**ANALYSIS:** (Attach a separate page if necessary)  
 This fiscal note only reflects state match dollars associated with the transfer of the ACMP to DNR. Federal funds would be granted to the Governor's Office until such time that a program amendment for the transfer of the program to DNR was approved by NOAA OCRM. It is assumed that these funds \$2,812.3 could be provided to DNR thru a RSA. It is also possible that NOAA OCRM would withhold federal funding until they have the opportunity to review & approve the program amendment. General Fund remaining with DGC is associated with 1 FTE & related support that currently carries out ANILCA coordination for the Office of the Governor. Funding level represents Governor's request. Any reduction to the funding level per the legislative process is not reflected in this fiscal note.

Prepared by Gabrielle LaRoche Acting Director *[Signature]* Phone 465-3562  
 Division Governmental Coordination Date/Time 4/16/99 4:24 PM  
 Approved by Jim Ayers, Chief of Staff *[Signature]* Date \_\_\_\_\_  
 Agency Office of the Governor

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Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### Sponsor Statement

#### CSSB 140

Senate Bill 140 provides statutory changes to the land planning and classification process in Title 38 as required by budget reductions to the Division of Land. Budget efficiencies arise from making the planning and classification processes permissive, rather than a required activity prior to a land use "Best Interest Finding," lease, sale or disposal of state interest. Existing plans are preserved.

SB 140 also investigates mission alignment and efficiencies in government from establishing the Division of Governmental Coordination as a section in the Division of Land, Department of Natural Resources. DGC is now a part of the Office of Management and Budget.

The Division of Governmental Coordination is tasked with multi-agency coordination and a public review and consistency determination process for land use activities in the coastal regions of Alaska. The Division of Governmental Coordination is the State's one-stop-shop for land use permitting processes within Coastal Areas.

The Division of Land provides land use planning, permitting and public review for all state land. These processes are not identical, but both involve land use activities.

In its review actions the Division of Governmental Coordination interacts with approximately 46 staff from the Department of Natural Resources, 28 from the Department of Environmental Conservation and 17 from the Department of Fish and Game.

Budget "efficiencies may be gained if the director and administrative staff (5 positions) were fully or partially absorbed by an existing structure" (DGC, 3/24/99). The division is currently without a director. DGC costs approximately \$1,465,000 in general funds and \$2,812,000 in federal funds.

The Division of Land, in the Department of Natural Resources, consists of approximately 120 positions with approximately \$6 - 7,000,000 in general funds and \$49,800 in federal funds.



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### Sectional

### CSSB 140\N

**Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10.** Make land classification permissive.

**Section 11.** Provides guidance to the land planning process, and the flexibility to carry out land planning "when funds allow."

**Section 12, 13, 14.** Make land classification permissive.

**Section 15 and 16.** Provides efficiency in the public notice process and includes the Internet.

**Section 17, 18, 19.** Make land classification permissive.

**Section 20, 21, 22.** Technical statute references.

**Section 23.** Modifies the boundary of the Hatcher Pass Public Use Area to allow DNR and the Municipality to create a Ski Area.

**Section 24.** Technical reference.

**Section 25.** Moves the Alaska Coastal Policy Council from the Office of Management and Budget to the Department of Natural Resources. There is no policy change.

**Sections 26, 27, 28, 29, 30, 31, 32, 33.** Technical statute references

**Sections 34, 35, 36, 37, 38, 39, 40, 41, and 42.** Transfers authority for the Coastal Management Program to the Department of Natural Resources from the Department of Community and Regional Affairs. No policy change.

**Section 43.** Repeals code moved from the Office of Management and Budget to the Department of Natural Resources.

**Section 44.** Relates to the Hatcher Pass Public Use Area.

**Section 45.** Provides for a smooth transition of regulations to the Department of Natural Resources.

**Section 46 and 47.** Effective Dates.



# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

April 26, 1999

Senate Finance Committee  
Alaska State Capitol — via fax

RE: SB 140

Dear Senate Finance Committee:

The following is submitted as testimony for the upcoming hearing on SB 140. The City and Borough of Sitka and its Sitka Coastal Management Program have had a long and productive relationship with the Alaska Coastal Management Program (ACMP) and its managing agency, the Division of Governmental Coordination (DGC). Sitka's Coastal Program, approved in 1981 with significant amendment in 1989, was founded on the premise that the plan gives Sitka "a seat at the table" when dealing with State and Federal decision makers on projects of importance to our community.

DGC has provided a coordinating mechanism to balance all the different interests of project applicants, various local, state and federal agencies and governments, and the public in dealing with permits and other issues in the coastal zone. As a line agency with its own land and water management interests, the Department of Natural Resources (DNR), which is already woefully understaffed, does not have the staff nor mandate to address the "big picture" in assuring that all ACMP requirements are met. Forcing the ACMP on DNR could compromise DNR's mission.

SB 140 would do a disservice to both DNR, which cannot now adequately manage the State's resources, and to DGC, which has done an outstanding job of managing Alaska's Coastal Management Program and working with local coastal programs as well. The ACMP receives considerable federal funding, and moving the program to DNR would not save significant general fund dollars and could greatly weaken the Program at a time when it is very successful and local coastal districts depend on the federal funding assistance to manage their local programs.

Sitka's Coastal Management Program involvement in State and Federal decision making in cooperation with Division of Governmental Coordination has been extremely beneficial to all parties. Please do not compromise this very important program by moving it out of DGC with its proven coordination and success record into a line agency whose functions do not include the objective centralized oversight of the local, state and federal consistency review process and other ACMP functions. The Sitka Coastal Program opposes SB 140 and requests "if it ain't broke, don't fix it." Thank you for the opportunity to comment.

Sincerely,

Mariene A. Campbell  
Coastal Management Coordinator

cc: Sitka Assembly  
Administrator Gary L. Paxton  
Providing for today...preparing for tomorrow

**James A. Heumann, P.E.**  
P.O. Box 020207  
Juneau, Alaska 99801

April 16, 1999

Senator John Torgerson  
Alaska State Legislature  
Senate Resources Committee

Re: Please vote against Senate Bill 140

Dear Senator Torgerson:

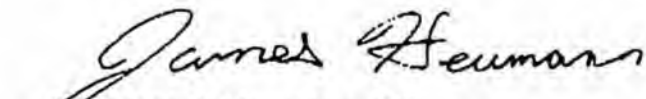
As a 25-year Alaskan citizen and a professional civil engineer in the State of Alaska I am writing to urge you to **please vote "no" on Senate Bill 140.**

I have worked with DGC personnel on a number of projects and found them to be professional, prompt and courteous in addressing sensitive permit issues. I am asking you to vote no because of the following reasons:

- Alaska's existing Department of Governmental Coordination (DGC) - coordinated Consistency Review process works! It has a proven track record of providing predictable and timely coordination of multiple permit applications.
- It provides a neutral forum for mediating and resolving differences between agencies, applicants, affected coastal districts and local residents.
- It effectively documents the manner in which conflicts are resolved and insures that permit application time lines are adhered to.
- It is supported by the Coastal Policy Council as indicated in their signed resolution of 4/14/99.

Thank you in advance for your consideration, if its not broke, don't fix it.

Sincerely:

  
James A. Heumann, P.E.

**Kevin R. Keeler**  
5460 E. 112<sup>th</sup> Ave.  
Anchorage, AK 99516

May 3, 1999

Senate Finance Committee  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Re: CSSB 140; revision of Hatcher Pass Public Use Area boundaries

Dear Sirs:

I am writing in opposition to the sections of CSSB 140 that would transfer approximately 900 acres of the Hatcher Pass Public Use Area to the Mat-Su Borough. I am a landowner in the vicinity, owning a 2.25 acre parcel and cabin approximately a half mile from the proposed transfer boundaries. From the outset, you should know that this transfer is part of much larger 3,700 acre transfer of lands to the Mat-Su Borough from the State that has had virtually no public involvement in the proceedings. I have been informed by DNR staff that these lands will be transferred to the Borough at the same time the Hatcher Pass Public Use Area lands transfer will occur (if authorized under SB 140), and that the only thing holding up the transfer was the classification of the 940 acres as Public Use Area.

I am strongly opposed to the transfer for the following reasons:

- the Hatcher Pass Public Use Area is an important legislatively designated area that provides for public access and habitat while allowing the development of the ski area. Twenty percent of the public use area would be eliminated with this bill.
- transfer of these lands would abandon a number of conservation agreements made by the state as a compromise for ski area development (see attached list of conservation agreements). Many participants in the planning process were opposed to ski area development without these conditions. These conditions protect public access for hunting, hiking, snowmobiling and ATVing, and moose and salmon habitat. These conditions would be abandoned with a transfer to Borough ownership.
- virtually no public involvement has occurred in the planning of this land transfer. The transfer of lesser interest to the Borough by DNR was given only one tiny legal notice in the newspapers; none of the public (including myself) was aware of it at that time. The Borough or State has never contacted adjacent landowners, even though documents indicate they have been planning such a transfer since February 1998.
- the transfer of these lands would be premature as the success of the ski area is not guaranteed. The current transfer of lesser interest to the Borough allows the consideration of reverting that interest to the State in three years if the ski area has not moved forward, yet under SB 140, the Borough would permanently gain title to the land. This is not appropriate!

I strongly urge you to amend CSSB 140 to drop the sections dealing with the transfer of the Hatcher Pass Public Use Area. If you have questions, I can be reached at 346-3475. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Keeler', written over a printed name.

Kevin Keeler

Att. (1)

**Habitat and Public Access Provisions  
Of the 1989 Amended H. Pass Mgt. Plan  
Potentially Lost If Land Title is Transferred to MSB  
Under SB 140 and Municipal Selections**

The following are some of the many conservation provisions put into the current Hatcher Pass Management Plan. Have the following been provided for in the transfer of lands to the Mat-Su Borough? How will they be provided for?

Intent of Plan

- p. 6 – "preserve scenic values"; "leave as much open space and moose habitat as possible"

Public involvement

- p.7 – public hearings on design will be provided in Anchorage and Valley

No Commercial Development in Little Susitna corridor

- p. 13 – a. recreational businesses will not be allowed in the Little Susitna road corridor

Planning to Ensure Trail Connections thru Little Susitna corridor

- p. 14 – b. State Parks will do trail planning; to ensure connections for trail corridors

East Boundary of Resort Area

- p. 15 – f. east boundary of resort area is Hatcher Pass Road

Resort Design Guidelines

- p. 17 – J. extensive siting, design review, etc. conditions

When to Develop Subunit B

- p. 21 – only in conjunction with Subunit A; not separate

Limitation on Total Acreage for Resort Housing

- p. 23 – I. 150 acres

Public Desire to Establish State Recreation Area

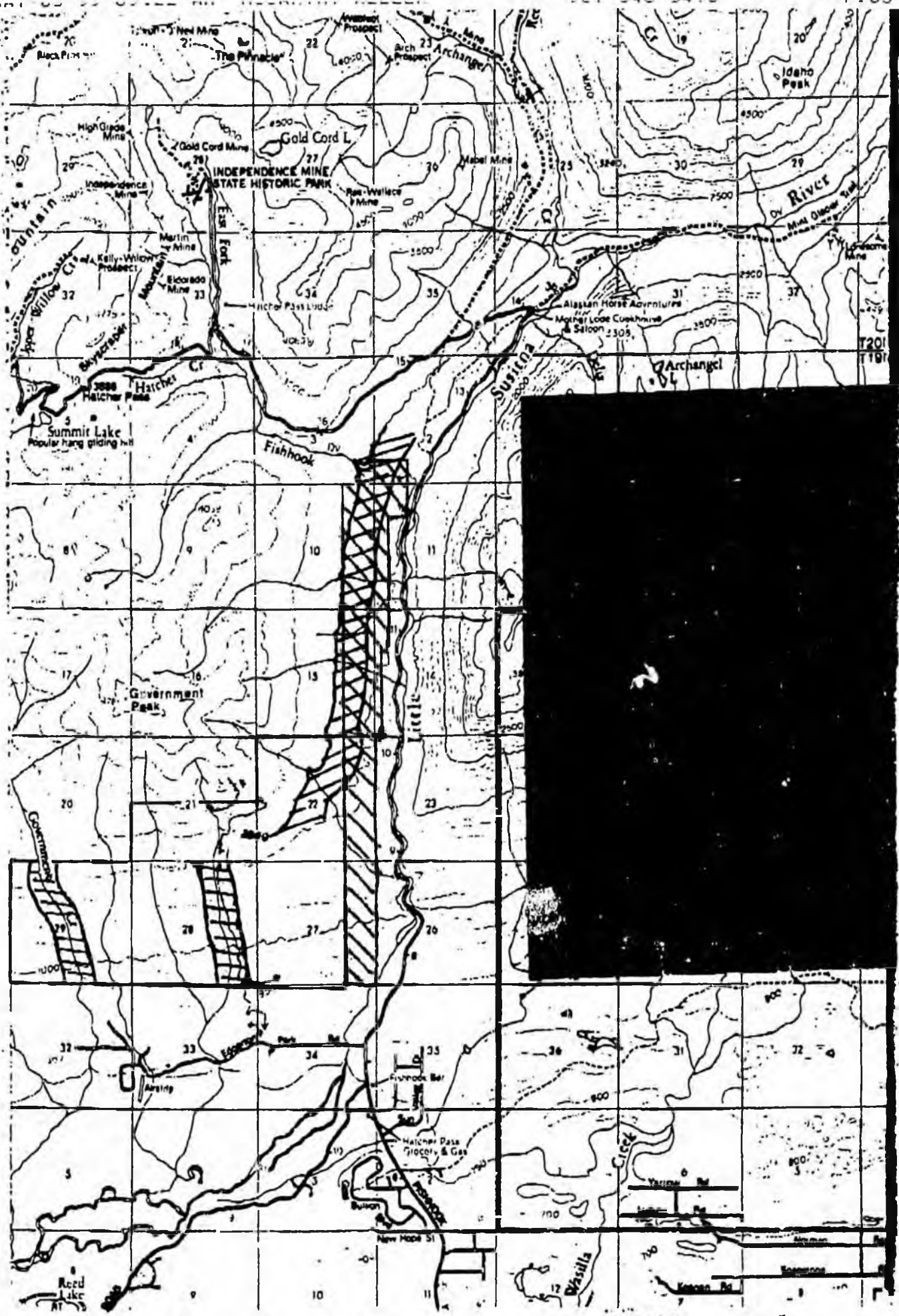
- p. 33 – b. for sections 27, 28, 29, 30, 31

Provide Moose Habitat Greenbelt in Public Use Area to Connect Subunit A to B

- p. 36 – g. to run north south, a one-quarter mile wide greenbelt extending downward from the 2,000 foot contour, in Subunit A

Provide Habitat Greenbelts in Subunit B

- p. 36 – h. provide one-quarter mile greenbelts on Government Creek and anandramous streams in east half of sections 21 and 28.



□ = ROAD SELECTED

▨ = 59 140

▧ = SALMON GREEN-BELT

▩ = ROCK GREEN-BELT

1" = 1 MILE

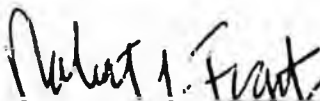
Resolution 99-1


***ALASKA COASTAL POLICY COUNCIL***

**Opposing Senate Bill 140 "An Act relating to the powers and duties of the Department of Natural Resources and to the Alaska coastal management program."**

- WHEREAS, The Alaska Coastal Management Program (ACMP) has been located in the Office of the Governor since the inception of the program in 1979;
- WHEREAS, The ACMP is a networked program that relies upon existing authorities and consensus among the agencies which is best achieved under the umbrella of the Office of the Governor;
- WHEREAS, The Division of Governmental Coordination (DGC) frequently facilitates the development of State positions on coastal issues for the Office of the Governor;
- WHEREAS, The proposed Senate Bill 140 does not result in any savings to State general fund dollars and may in fact result in increased costs associated with start-up of the program with new staff in a new agency;
- WHEREAS, DGC's track record for implementing the ACMP is excellent as evidenced in the triennial federal Section 312 evaluation by the federal Office of Ocean and Coastal Resource Management, as well as the 1995 audit conducted by Legislative Affairs Agency;

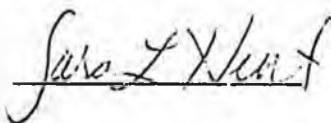
NOW, THEREFORE, BE IT RESOLVED, THAT THE Alaska Coastal Policy Council opposes Senate Bill 140 and supports the ACMP as it is currently structured within the Office of the Governor.

  
Robert Fagerstrom, Co-Chair

  
Gabrielle LaRoche, Co-Chair

Dated this 14<sup>th</sup> day of April, 1999

Attest:





## ARTICLE VIII. NATURAL RESOURCES.

**SECTION 1. STATEMENT OF POLICY.** It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

**SECTION 2. GENERAL AUTHORITY.** The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

**SECTION 3. COMMON USE.** Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

**SECTION 4. SUSTAINED YIELD.** Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

**SECTION 5. FACILITIES AND IMPROVEMENTS.** The legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands, and to assure fuller utilization and development of the fisheries, wildlife, and waters.

**SECTION 6. STATE PUBLIC DOMAIN.** Lands and interests therein, including submerged and tidal lands, possessed or acquired by the State, and not used or intended exclusively for governmental purposes, constitute the state public domain. The legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain.

**SECTION 7. SPECIAL PURPOSE SITES.** The legislature may provide for the acquisition

of sites, objects, and areas of natural beauty or of historic, cultural, recreational, or scientific value. It may reserve them from the public domain and provide for their administration and preservation for the use, enjoyment, and welfare of the people.

**SECTION 8. LEASES.** The legislature may provide for the leasing of, and the issuance of permits for exploration of, any part of the public domain or interest therein, subject to reasonable concurrent uses. Leases and permits shall provide, among other conditions, for payment by the party at fault for damage or injury arising from noncompliance with terms governing concurrent use, and for forfeiture in the event of breach of conditions.

**SECTION 9. SALES AND GRANTS.** Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sales procedures. All sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State and shall provide for access to these resources. Reservation of access shall not unnecessarily impair the owners' use, prevent the control of trespass, or preclude compensation for damages.

**SECTION 10. PUBLIC NOTICE.** No disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

**SECTION 11. MINERAL RIGHTS.** Discovery and appropriation shall be the basis for establishing a right in those minerals reserved to the State which, upon the date of ratification of this constitution by the people of Alaska, were subject to location under the federal mining laws. Prior discovery, location, and filing, as prescribed by law, shall establish a prior right to these minerals and also a prior right to permits, leases, and transferable licenses for their extraction. Continuation of these rights shall depend upon the

performance of annual labor, or the payment of fees, rents, or royalties, or upon other requirements as may be prescribed by law. Surface uses of land by a mineral claimant shall be limited to those necessary for the extraction or basic processing of the mineral deposits, or for both. Discovery and appropriation shall initiate a right, subject to further requirements of law, to patent of mineral lands if authorized by the State and not prohibited by Congress. The provisions of this section shall apply to all other minerals reserved to the State which by law are declared subject to appropriation.

**SECTION 12. MINERAL LEASES AND PERMITS.** The legislature shall provide for the issuance, types and terms of leases for coal, oil, gas, oil shale, sodium, phosphate, potash, sulfur, pumice, and other minerals as may be prescribed by law. Leases and permits giving the exclusive right of exploration for these minerals for specific periods and areas, subject to reasonable concurrent exploration as to different classes of minerals, may be authorized by law. Like leases and permits giving the exclusive right of prospecting by geophysical, geochemical, and similar methods for all minerals may also be authorized by law.

**SECTION 13. WATER RIGHTS.** All surface and subsurface waters reserved to the people for common use, except mineral and medicinal waters, are subject to appropriation. Priority of appropriation shall give prior right. Except for public water supply, an appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses, concurrent or otherwise, as prescribed by law, and to the general reservation of fish and wildlife.

**SECTION 14. ACCESS TO NAVIGABLE WATERS.** Free access to the navigable or public waters of the State, as defined by the legislature, shall not be denied any citizen of the United States or resident of the State, except that the legislature may by general law regulate and limit such access for other beneficial uses or public purposes.

**SECTION 15. NO EXCLUSIVE RIGHT OF FISHERY.** No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State. This section does not restrict the power of the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State.

**SECTION 16. PROTECTION OF RIGHTS.** No person shall be involuntarily divested of his right to the use of waters, his interests in lands, or improvements affecting either, except for a superior beneficial use or public purpose and then only with just compensation and by operation of law.

**SECTION 17. UNIFORM APPLICATION.** Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.

**SECTION 18. PRIVATE WAYS OF NECESSITY.** Proceedings in eminent domain may be undertaken for private ways of necessity to permit essential access for extraction or utilization of resources. Just compensation shall be made for property taken or for resultant damages to other property rights.

## ARTICLE IX. FINANCE AND TAXATION.

**SECTION 1. TAXING POWER.** The power of taxation shall never be surrendered. This power shall not be suspended or contracted away, except as provided in this article.

**SECTION 2. NONDISCRIMINATION.** The lands and other property belonging to citizens of the United States residing without the State shall never be taxed at a higher rate than the

(6) The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

(7) The State is organized to implement the management program.

(8) The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

(9) The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values.

(10) The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(A) to administer land use and water use regulations to control development to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(11) The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.

(B) Direct State land and water use planning and regulation.

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(12) The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

(13) The management program provides for—

(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

(B) specific and enforceable standards to protect such resources.

(14) The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

(15) The management program provides a mechanism to ensure that all State agencies will adhere to the program.

(16) The management program contains enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 1455b of this title.

(e) Amendment or modification of State management program for coastal zone

A coastal state may amend or modify a management program which it has submitted and which has been approved by the Secretary under this section, subject to the following conditions:

(1) The State shall promptly notify the Secretary of any proposed amendment, modification, or other program change and submit it for the Secretary's approval. The Secretary may suspend all or part of any grant made under this section pending State submission of the proposed amendments, modification, or other program change.

(2) Within 30 days after the date the Secretary receives any proposed amendment, the Secretary shall notify the State whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days after the date the Secretary received the proposed amendment. The Secretary may extend this period only as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If the Secretary does not notify the coastal state that the Secretary approves or disapproves the amendment within that period, then the amendment shall be conclusively presumed as approved.

(3)(A) Except as provided in subparagraph (B), a coastal state may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Secretary under this subsection.

(B) The Secretary, after determining on a preliminary basis, that an amendment, modification, or other change which has been submitted for approval under this subsection is likely to meet the program approval standards in this section, may permit the State to expend funds awarded under this section to begin implementing the proposed amendment, mod-

**CSSB 140**  
**Mission Analysis**

*Division of Governmental Coordination*

The Division of Governmental Coordination is located in the Office of Management and Budget.

Federal law requires that the state agency operating a Coastal Management Program have power to "direct State land and water use planning and regulation." or "Provide administrative review for consistency with the management program of all development plans, projects, or land and water use regulations . . . proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings."

The Office of Management and Budget does not have this authority, DNR does.

The Division of governmental Coordination consists of 24 staff, with an additional 2 staff funded through the Coastal Program in the Department of Community and Regional Affairs. Total budget is GF = \$1,349.0 and \$2,812.3 in federal funds.

*Division of Land, DNR*

The Division of Land in the Department of Natural Resources is responsible for authorizing state land and water use. The department has statutory and constitutional requirements to provide public notice and evaluate a broad range of competing public interests.

DNR considers: multiple use, compatibility of land uses, oil, gas, mining, timber, agriculture, recreational values, economic benefits, local job base, personal use, fish and wildlife habitat, protection of important wildlife habitat, watershed management, retention of riparian, wetland, and ocean-shoreline vegetation critical for fish and wildlife habitat, tourism, other resources and uses appropriate to an area, other physical, and social factors affecting an area and involving other agencies and the public in achieving a systematic interdisciplinary approach. (AS 38.04.065 and .05)

The Division of land is also responsible for planning, classification, Best Interest Findings, sales and leases involving a broad range of public and private uses and users. DNR allocates state land and resources.

The Division of Land consists of approximately 117 staff, including a director. It receives over \$6 million in GF and \$49.8 thousand in federal funds.

An Act making approximately 939.01 acres from the Hatcher Pass Public Use Area available for selection and conveyance to the Matanuska-Susitna Borough under the Municipal Land Act.

Add a new section AS 41.23.135 to read:

**Sec. 41.23.135. Making land available to the Matanuska-Susitna Borough. The following land that is located within the Hatcher Pass Public use Area shall be made available for selection and conveyance to the Matanuska-Susitna Borough under AS 29.65:**

**Township 19 North, Range 1 East, Seward Meridian**

**Section 2: S1/2SW1/4SW1/4**

**Section 10: E1/2E1/2**

**Section 11: Tract A**

**Section 14: Tract A**

**Section 15: E1/2E1/2**

**Section 22: E1/2E1/2**

**Section 27: E1/2E1/2**

**When the land is conveyed to the Matanuska-Susitna Borough it will no longer be considered to be a part of the Hatcher Pass Public Use Area and not subject to its provisions.**

#### *Legislative Intent*

In 1986 the Alaska Legislature created the Hatcher Pass Public Use Area. The area encompasses a total of 5,200 acres. The purpose of the Public Use Area was to provide for public recreation activities, protect and enhance the fishery, waterfowl, and wildlife resources, including fishing, hunting and trapping and to protect the water quality and scenic resources within the area.

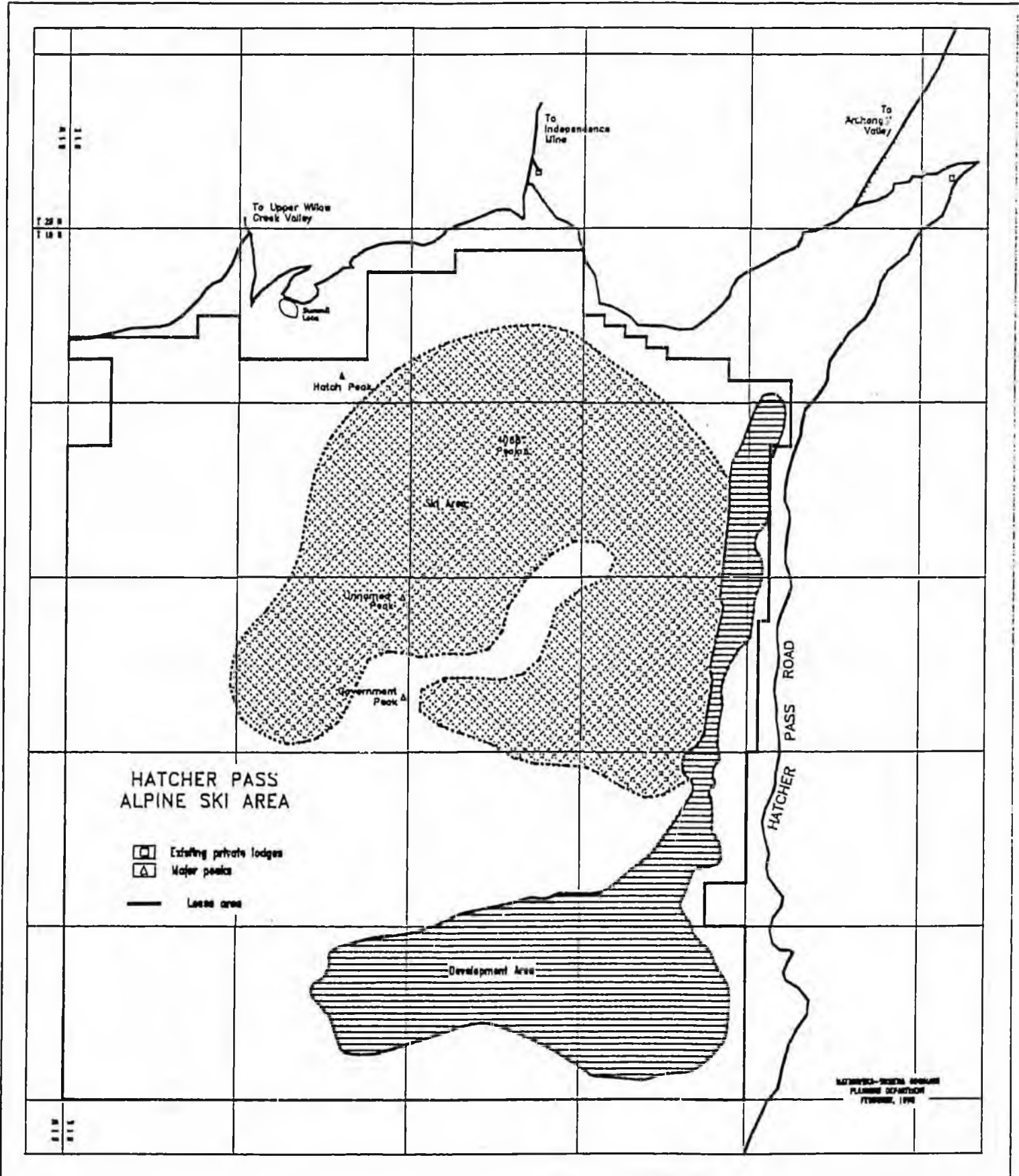
In 1986 the Department of Natural Resources adopted the Hatcher Pass Management Plan. This plan was later amended in 1989 to facilitate several needed changes identified by the public. One of these changes allowed the development of a four-season ski resort in the Government Peak area.

In September 1993 the state issued a lease for a ski resort for 10,635 acres, some of which overlaps the Public Use Area. In February 1998 the Matanuska-Susitna Borough, under the Municipal Land Act selected a sizable portion of the lease area. This was later reduced to 3,659 acres, most of which was in the development zone. However, there are 939 acres of this selection which, although adjacent to the development zone, falls within the public use area as well.

In April 1998 the Department of Natural Resources and Matanuska-Susitna Borough entered into an agreement that would eventually transfer management of the lease to the Matanuska-Susitna Borough. The lease was transferred to the Borough in January 1999.

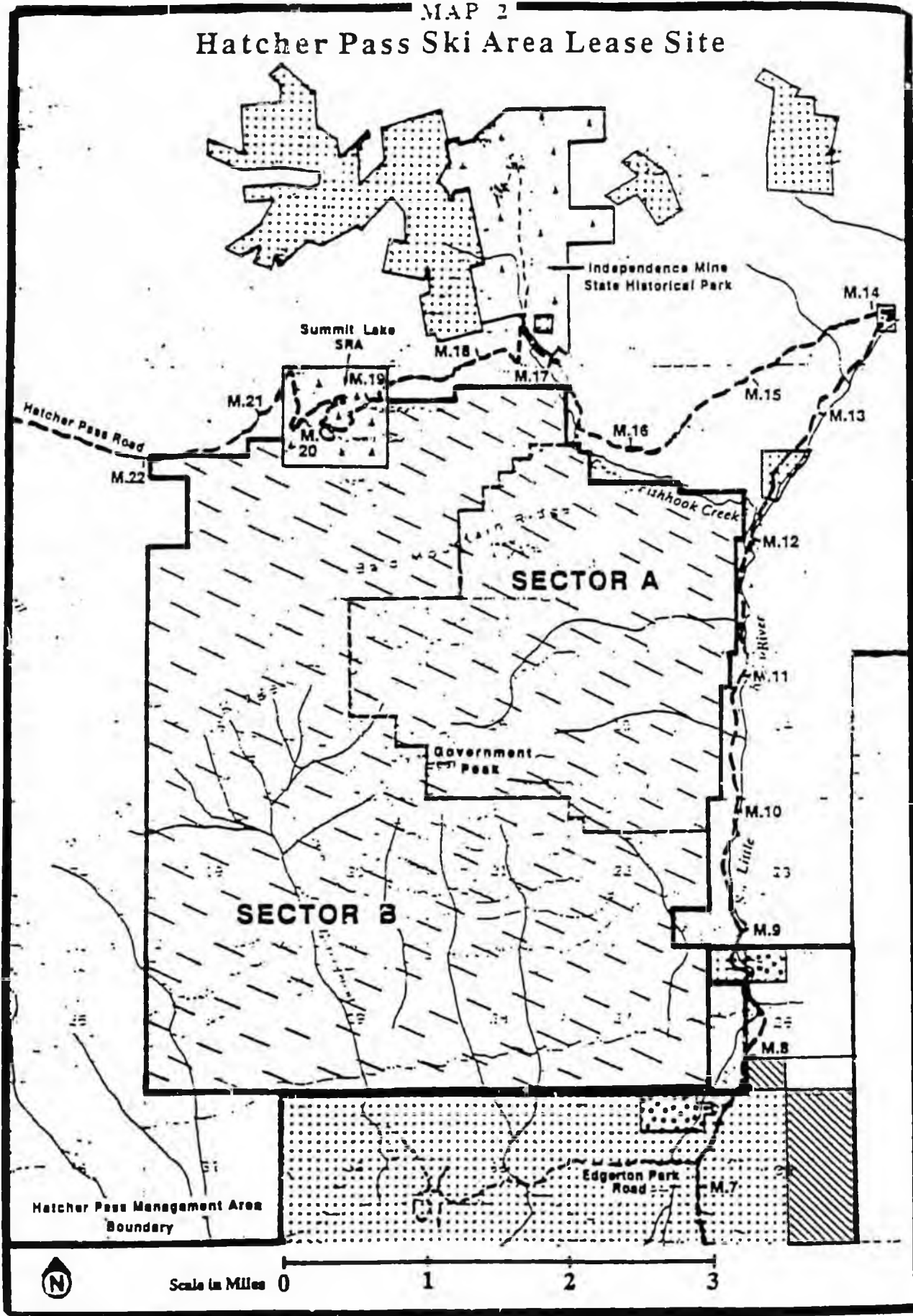
The agreement also stated that DNR would support the Borough's efforts at obtaining title to the land it selected. Management of the lease and ownership of the land are important elements to obtaining financing for the project.









Presently the Borough cannot obtain title to the land in the public use area. This can only be done if the legislature amends the boundaries and allows the Borough to select and obtain title under the Municipal Land Act (acreage charged against the municipalities land entitlement).





# Hatcher Pass Ski Area Lease Site



- |   |                              |   |                       |
|---|------------------------------|---|-----------------------|
|  | Alpine Ski Area - Lease Area |  | State Park Units      |
|  | State Owned Land             |  | Private (Native Land) |
|  | Private Land                 |  | Roads                 |
|  | Mat - Su Borough             |  | M.23 Mile Posts       |

STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF LAND

Northern Region  
3700 Airport Way  
Fairbanks, AK 99709  
(907) 451-2705

Southcentral Region  
3601 C Street, Suite 1080  
Anchorage, AK 99503-5937  
(907) 269-8552

Contract Administration  
3601 C Street, Suite 1030  
Anchorage, AK 99503-5937  
(907) 269-8594

Southeast Region  
400 Willoughby, #40  
Juneau, AK 99801  
(907) 465-3400

TRANSFER OF LEASE

Non-refundable filing fee: \$100.00;  
\$200.00 if assignee is a corporation

92-0030816

Federal Tax I.D. or SSN # (optional)

ADL 225965

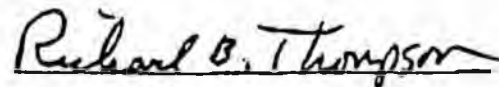
ADL #

Effective this 8th day of January for value received, the State of Alaska whose  
mailing address is: Division of Land, Southcentral Region, 3601 "C" Street, Anchorage, AK 99503-5937

Lessor(s) under the lease designated as ADL No. 225965 covering the following described property:

Appendix A and Appendix B of the original lease agreement recorded in Palmer Recording District, Book 0734, Pages 0358-0360.

does hereby assign, its interests as Lessor, for good and valuable consideration, and subject to all decisions, Memorandums of Agreement, terms of the Hatcher Pass Management Plan as amended, all management rights and interest in the above lease to assignee: the Matanuska-Susitna Borough, whose mailing address is: 350 E. Dahlia Avenue, Palmer, AK 99645-6488. All modifications, lease assignments or amendments to ADL No. 225965 require written concurrence from the Division of Land. The state reserves the right to review and approve any future development options which differ from the one currently approved for consistency with state policy goals. If ADL No. 225965 is terminated by either party for any reason, management authority reverts to the Department of Natural Resources, Division of Land. The Division of Land will continue to exercise land management authority for non-lease activities. Upon conveyance of the land title interest in that portion of the lease area currently under selection by the Matanuska-Susitna Borough this transfer is void. This transfer remains in effect for the remainder of the lease area. This assignment may be terminated for cause. This includes, but is not limited to, failure to begin project development with three (3) years of the date this assignment is approved. If significant progress has not occurred within this timeframe the assignor will review the status of project development and may terminate the assignment. The decision to terminate may be appealed in accordance with 11 AAC 02.



ASSIGNOR(S)

STATE OF ALASKA

\_\_\_\_ Judicial District

)  
) ss.  
)

THIS IS TO CERTIFY that on this 27<sup>th</sup> day of January, 19 99, before me appeared Richard B. Thompson known to me to be the person(s) named as assignor(s) who executed this assignment and acknowledged voluntarily signing the same.



Carole Garris  
Notary Public in and for the State of Alaska  
My Commission Expires 3/23/99

The Assignee(s), Matanuska-Susitna Borough

herein expressly assume(s) the management of the lease and to fulfill all the terms, conditions and covenants of the lease ADL No. 225965 as of the date of this transfer.

Michael J. Scott  
Michael J. Scott  
Borough Manager  
ASSIGNEE(S)

STATE OF ALASKA

Third Judicial District

)  
) ss.  
)

THIS IS TO CERTIFY that on this 11<sup>th</sup> day of January, 19 99, before me appeared Michael J. Scott known to me to be the person(s) named as assignee(s) who executed this assignment and acknowledged voluntarily signing the same.



Kathryn M. Wolf  
Notary Public in and for the State of Alaska  
My Commission Expires 8/28/02

APPROVED:

Richard B. Thompson  
Division of Land Authorized Representative

1/27/99  
Date

PLEASE ENSURE THAT YOU HAVE PROVIDED ALL OF THE FOLLOWING:

A. Filing fee; B. Three forms with original signatures and notarization on each; C. A current address for both assignor and assignee; D. Corporate signatures on an assignment require signature by a corporate officer on behalf of a corporation bearing an acknowledgment that the assignee is an officer of, and has been authorized by the corporation to execute the assignment. The assignment must bear the corporate seal. Also submitted with the assignment should be a copy of the Articles of Incorporation and Corporate Resolution.

SPECIAL INSTRUCTIONS

When there are two or more lessees: A. and you are delating one of the original lessees, all signatures are required as assignor and the remaining lessee(s) as assignee(s); B. and/or one of the lessees is assigning his interest to another person, the assignment should reflect the remaining parties as assignee and not just the individual to whom the property is being assigned. (Attach additional sheets as needed).

Assgntr7.doc

# COPY

## MEMORANDUM OF AGREEMENT

Hatcher Pass Ski Area

between

State of Alaska  
Department of Natural Resources  
Southcentral Region

and

Matanuska-Susitna Borough

This AGREEMENT is made and entered into this 14 day of April, 1998 among the State of Alaska, acting by and through the Department of Natural Resources, hereinafter called the DEPARTMENT, and the Matanuska-Susitna Borough, acting by and through the Office of the Borough Manager, hereinafter called the BOROUGH.

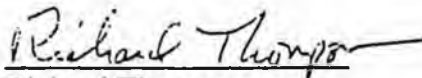
The DEPARTMENT and BOROUGH, in the interest of developing a ski resort, hereby agree:

1. The DEPARTMENT will take those actions necessary to transfer the interest within the existing HATCHER PASS DEVELOPMENT CORPORATION LEASE (ADL 225965), hereinafter called the LEASE, to the BOROUGH;
2. The DEPARTMENT agrees to take those actions necessary to transfer title to the lands which comprise ADL 225965;
3. The DEPARTMENT agrees to cooperate with the BOROUGH in the future transfer of title of additional lands to the BOROUGH. Such additional lands will be mutually agreed upon and will consist of lands where related ski resort development is to occur.
4. The BOROUGH agrees to invest funds and undertake its best efforts towards accomplishing the Hatcher Pass Ski Area project, hereinafter called the PROJECT;
5. The BOROUGH agrees to comply with the Hatcher Pass Management Plan, as amended.

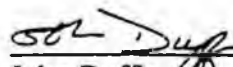
6. The DEPARTMENT shall retain the authority to approve any lease assignment or amendment.
7. Lease payments shall be retained by the BOROUGH.
8. This AGREEMENT may be amended by mutual consent.

AGREED AND SIGNED BY:

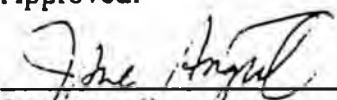
Recommended:

  
Richard Thompson  
Southcentral Regional Manger  
Division of Lands  
Department of Natural Resources  
State of Alaska

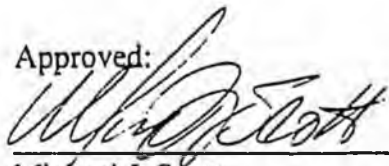
Recommended:

  
John Duffy  
Director of Planning  
Matanuska-Susitna Borough

Approved:

  
Jane Angvik  
Director, Division of Lands  
Department of Natural Resources  
State of Alaska

Approved:

  
Michael J. Scott  
Manager  
Matanuska-Susitna Borough

05/03/99  
09:38:58

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (TESTIFIERS ONLY)  
TCN:90702 SCHEDULED FOR:05/03/99 09:00 TO 11:00  
PUBLIC HEARING SENATE FINANCE

LTN1150  
BY:JNU  
FOR:ALL

LOCATION: ANCHORAGE		✓ <i>Jane</i>	<i>Angvik, DNR</i>		
SB 140		✓ JOHN	BAKER	DEPT OF LAW	TESTIFY
SB 140		NANCY	MICHAELSON		TESTIFY
LOCATION: BARROW					
SB 140	MR.	✓ JON	DUNHAM	N. SLOPE BOROUGH	TESTIFY
LOCATION: DILLINGHAM					
SB 140		✓ JOHN	EASTON	BBCRSA	TESTIFY
LOCATION: KODIAK					
SB 140	MS	✓ LINDA	FREED	KOD IS BOROUGH	TESTIFY
LOCATION: MATSU					
SB 140	MR	✓ BILL	EASTHAM		TESTIFY
SB 140	MS	✓ KATHY	WELLS		TESTIFY
SB 140	MS	✓ KAROL	KOLEHMAINEN		TESTIFY
LOCATION: NOME					
SB 140	MR.	✓ ROBBIE	FAGERSTROM		TESTIFY

SENATE FINANCE COMMITTEE

SIGN-IN

SB 140-COASTAL ZONE MANAGEMENT TO Department of Natural Resources

NAME: GABRIELLE LAROCHE Subject/Bill No: SB140  
Co./Dept./Title: DGC, ACTING DIRECTOR Phone: 465-8850  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: MURRAY WALSH Subject/Bill No: SB 140  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: 2974 FOSTER AV. JUNE Zip: 99801

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

SENATE FINANCE COMMITTEE

SIGN-IN

**SB 140-COASTAL ZONE MANAGEMENT TO Department of Natural Resources**

NAME: MURRAY WALSH Subject/Bill No: SB 140

Co./Dept./Title: \_\_\_\_\_ Phone: (907) 586-4083

Address: 2974 FOSTER AV. JUNEAU AK Zip: 99801

Do you wish to testify?  Yes  No  Respond To Questions

NAME: CHRISTOPHER LA ROCHE Subject/Bill No: SB 140

Co./Dept./Title: ACTING DIRECTOR Phone: 465-3562

Address: DGC Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

04/30/99  
09:31:22

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (TESTIFIERS ONLY)  
TCN:90684 SCHEDULED FOR:04/30/99 09:00 TO 11:00  
PUBLIC HEARING SENATE FINANCE

LTN1150  
BY:JNU  
FOR:ALL

LOCATION:ANCHORAGE

SB 140		CLIFF	EAMES	AK CNTR ENVIRON	TESTIFY
SB 140		JOHN	BAKER	DEPT OF LAW	TESTIFY
SB 140		NORM	STOUT		TESTIFY

LOCATION:DILLINGHAM

SB 140		JOHN	EASTON	BBCRSA	TESTIFY
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LOCATION:KODIAK

SB 140	MS	LINDA	FREED	KOD IS BOROUGH	TESTIFY
<del>SB 151</del>	<del>MR</del>	<del>PAT</del>	<del>CARLSON</del>	<del>BOROUGH-ASSESSOR</del>	<del>UNABLE</del>

LOCATION:MATSU

SB 140	MS	KAROL	KOLEHMAINEN		TESTIFY
SB 140	MS	KATHY	WELLS		TESTIFY

LOCATION:NOME

SB 140	MR.	ROBERT	FAGERSTROM	CPC	TESTIFY
SB 157	MR.	JOHN	HANDELAND	NJUS/CITY OF NOM	TESTIFY

LOCATION:SITKA

LOCATION:OFFNET 2

SB 140	MS	JANE	ANCHORAGE ANGVIK		TESTIFY
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