

SB

194

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/14/00

FURTHER:

Date of 5-Day Notice: 2/10/00
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2/21/00

Resources Committee considered

SENATE BILL NO. 194

"An Act relating to the Alaska Chilkat Bald Eagle Preserve."

and recommends:

- be replaced with _____ CS SB 194 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:
 same title
 new title
House Bill:
 same title
 technical title
 new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>John Green</i>	✓				
<i>Sean R. Parrell</i>	✓				
<i>Jimmy M.</i>	✓				
<i>Debra J. ...</i>	✓				
<i>Vito ...</i>	✓				
CHAIR: <i>Rick Halford</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

DNR: PARKS & REC	2/17/00	✓	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. SB194

Revision Date/Time: _____ Dept Affected: Natural Resources
 Title: An Act relating to the Alaska BRU: Parks and Recreation Mgt.
Chilkat Bald Eagle Preserve Component: Parks Management
 Sponsor: Mackie
 Requestor: (S) RES Component No #452

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: \$ _____ n/a

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact associated with implementation of this legislation.

Prepared by: Jim Stratton, Director *[Signature]* Phone: 269-8701
 Division: Parks Date: 17-Feb-00
 Approved by Commissioner: John Shively *[Signature]* Date: 17-Feb-00
 Agency: Natural Resources

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SENATOR JERRY MACKIE

SENATE MAJORITY LEADER

SPONSOR STATEMENT

SB 194, Survey Error Correction.

Although the bill status lists SB 194 as concerning the Chilkat Bald Eagle Preserve, the substance of this legislation is to correct a land ownership problem caused by a survey error.

Mr. David Pahl of Haines, Alaska purchased a piece of property near the Klehini River in 1995. Originally, the property was part of a state land disposal that had been subdivided and surveyed. Unfortunately, one of the parcels had been mis-monumented.

Mr. Pahl relied on the errant survey markers to define the location of his property. Right-of-way requirements of a state highway project revealed that the recorded plat of Mr. Pahl's property was an adjacent parcel, which had largely been taken by the Klehini River. Mr. Pahl appealed to the Department of Natural Resources to rectify the situation by giving him title to the piece of property he always thought was his. This solution is not available because an earlier action had placed the subject property within the Chilkat Bald Eagle Preserve.

SB 194 would allow the Commissioner of Nature Resources and the director of the Division of Lands to reclaim the property from the Preserve and give title to Mr. Pahl in exchange for the largely submerged parcel.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

ALASKA CHILKAT BALD EAGLE PRESERVE ADVISORY COUNCIL

MAILING ADDRESS:
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PHONE: (907) 465-4563
FAX: (907) 465-5330

January 4, 2000

The Honorable Senator Jerry Mackie
State Capitol Room 427
Juneau, AK 99801-1182

Dear Senator Mackie:

The Alaska Chilkat Bald Eagle Preserve Advisory Council respectfully requests legislative action to correct a clerical platting error affecting an inholding in the Alaska Chilkat Bald Eagle Preserve. The Council stipulates that such legislation be strictly limited in the title and content to the specific correction outlined below.

The property in question is owned by Mr. David Pahl of Haines. Title to the property was transferred to Mr. Pahl by the State of Alaska on April 4, 1997.

Mr. Pahl inspected the property prior to purchase. It was marked as Tract #2 of ASLS 79-232. Due to a surveyor's error, identified and acknowledged as an error by the Department of Natural Resources, the tract shown to the public with identifying markers as Tract #2, was represented on plat maps as Tract #1.

Consequently, Mr. Pahl, in purchasing Tract #2, received title to an adjacent lot, which then and now is partially covered by the Chilkat River, a resource whose protection is of considerable importance to the Council.

The Council, grateful for the support given by the Commissioner of Natural Resources in seeking a just resolution, is hereby requesting that the clerical error be corrected such that Mr. Pahl have title to the upland parcel he believed he had purchased in good faith referred to on plat maps as Tract #1, and that the riverfront parcel shown on plats as Tract #2 and currently deeded to Mr. Pahl be returned to the Preserve.

This correction will permit two parcels in question to be used in the future as they have in the past by Mr. Pahl and the preserve. It will ensure that the uses of the riverfront parcel are consistent with purposes of the preserve, and will protect the valid claim by Mr. Pahl to the property he inspected, purchased in good faith which was represented by State survey markers as the parcel offered to him for sale.

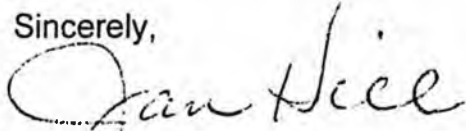
In summary, the Council wishes to thank Senator Mackie and Representative Kookesh for their interest and advocacy for the interests of Mr. Pahl and the Preserve.

We have attached some information which we hope will be of use to the Division of Legislative Services in drafting language which will return Mr. Pahl's title to his property, establish the Preserve's title to its riverfront parcel, and preclude establishment of any precedent suggesting that the integrity of the Preserve may be compromised by executive action.

We do not consider this to be a land trade, but rather a legislatively-mandated correction of a clerical error impacting both the Preserve and Mr. Pahl's interests.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Jan Hill". The signature is written in dark ink and is positioned above the printed name.

Jan Hill
Co-Chair

Alaska Chilkat Bald Eagle Preserve Advisory Council

Historical Notes on Tracts 1 & 2, ASLS 79-232.

The property claimed by Mr. Pahl was displayed for sale, marked on the ground as property not in the Preserve, and sold to the public prior to the creation of the Preserve.

During the intervening period the property was used by Mr. Pahl and others as private property. The members of the Board and residents of the area have understood the property to be Mr. Pahl's for many years, and a legal correction will simply state the facts as they exist: That the lot claimed by Mr. Pahl is his, and the lot stated to be his by the State is in fact part of the preserve.

The Council affirms that the land historically used by Mr. Pahl is more appropriate to private use than the land which the State, due to the clerical error in platting the survey, deeded to him. The land used historically by the preserve, and deeded to Mr. Pahl due to a platting and survey error, is best used by the Preserve for its purposes.

Both the council and Mr. Pahl agree that all interests are best served through the error correction. Mr. Pahl is willing to forgo any rights to the riverfront parcel (Tract #2). And the Council recommends the State convey its interest in the upland parcel (Tract #1) to Mr. Pahl.

We wish to stress that this approval and request is for these specific pieces of property only; and that this approval and request for action is based upon a unique set of facts; and that this approval and request is being made specifically because of the State's error in marking the property for public inspection. Neither the public nor the council had any prior reason to believe the property claimed by Mr. Pahl was ever in the preserve at all. It has been used as private land prior to the creation to the Preserve, and the Board supports Mr. Pahl's claim to title to the upland parcel. Mr. Pahl supports the council's recommendation that the State regain title to the river front parcel.

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STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

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July 15, 1999

David Pahl
 P.O. Box 702
 Haines, Alaska 99827

Re: Land problem, ADL 101410

Dear Mr. Pahl:

I am responding to Mr. Goll's summary of your land problem. Your situation is unique and I understand why you thought that the land you bought from a previous state land purchaser was an intact parcel next to the Klehini River. In fact, only a small remnant remains from Tract 2 of ASLS 79-232, the parcel you actually bought in 1995 from Sarah Kavasharov. The rest was eroded away by the river after the state issued the land sale contract to Ms. Kavasharov in 1981.

The attachment is a discussion of facts related to the issue. Because the existing monument caps are mismarked and Tract 2 has substantially eroded away, a layperson inspecting it in the field could be misled into thinking that the remaining parcel is Tract 2. Unfortunately, that is not the case. The survey plat shows that the remaining parcel is actually Tract 1, which was never sold and was designated by the legislature as part of the Alaska Chilkat Bald Eagle Preserve in 1982.

You apparently relied on the mismarked monuments when you purchased the tract. The department knew before originally offering the land that the surveyor had mismarked the monuments; and it should have foreseen that the mislabeling could mislead purchasers. It proceeded with the sale without making the surveyor correct the monument labels or even warning potential buyers that the labels had been reversed. I regret that this series of errors occurred, and I am looking for remedies for you.

Because Tract 1 was withdrawn by the legislature in 1982 as part of the Alaska Chilkat Bald Eagle Preserve, it is no longer subject to my land disposal powers under Title 38. Therefore the department does not have the authority to consider conveyance of Tract 1 at this time.

I think a fair resolution of this matter would be a refund of the original purchase price to you in exchange for you deeding Tract 2 back to the State. If this solution is not acceptable, the restrictions of Title 38 leave me without any alternative means to compensate you for this situation absent litigation. If you were to file legal action against the state, I could recommend that the Department of Law use its authority to settle the litigation by

Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans

David Pahl
July 15, 1999
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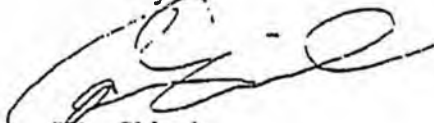
offering you a substitute parcel from the departments' 1999 land offering that is equal in value to the original purchase price (adjusted for time). This solution would also require you to deed Tract 2 back to the state.

Under current law, Tract 1, ASLS 79-232 is not available as a substitute parcel and could not be offered to you in any settlement. In order for Tract 1 to be available as a substitute parcel under the option stated in the previous paragraph, it would be necessary for the legislature to remove Tract 1 from the Alaska Chilkat Bald Eagle Preserve.

I realize that this has been a very frustrating experience for you. I want to find an equitable solution to our problem.

I understand you may be considering building on this site. I would advise you against building until this situation is resolved, as such action would cause you more expense and possible less of the property constructed. I look forward to continuing to work with you to resolve this matter.

Sincerely,



John Shively
Commissioner

Attachment

cc: Bob Loeffler, Director, Division of Mining, Land and Water
Jim Stratton, Director, Division of Parks and Outdoor Recreation
Peter Goll

J99052101LA