

SJR

7

ALASKA STATE LEGISLATURE



Senator John Torgerson, Chair
Senator Drue Pearce, Vice Chair
Senator Rick Halford
Senator Pete Kelly
Senator Robin Taylor
Senator Kim Elton
Senator Georgianna Lincoln


SENATE RESOURCES COMMITTEE

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MEMORANDUM

To: Rep. Beverly Masek, Co-Chair
Rep. Drew Scalzi, Co-Chair
House Resources Committee

From: Senator John Torgerson, Chair
Senate Resources Committee 

Date: February 20, 2001

Re: Hearing request for CS SJR 7(RES)
"Reinstate Wilderness Study Prohibition"

Please accept this memorandum as a request to schedule SJR 7 for a hearing in the House Resources Committee at your earliest convenience. The Senate Resources Committee introduced this resolution in an effort to encourage the President and the Secretary of the Interior to correct a last minute rescission by Interior Secretary Bruce Babbitt. On his way out the door, Secretary Babbitt rescinded a 20-year directive that protected Alaska's BLM land from wilderness review in compliance with ANILCA.

I have enclosed the following back-up information for your review and inclusion in the bill packets:

- CS SJR 7(RES)
- SJR 7
- Zero fiscal note
- Sponsor Statement
- Copy of ANILCA sections 1320 and 1326
- Copy of January 19, 2001 Anchorage Daily News Article

Thank you for your consideration of this request.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSJR 7(RES)
 (S) Publish Date: 9-Feb-01

Revision Date/Time (Note if correction): _____ Dept. Affected: None
 Title: Reinstate Wilderness Study Prohibition BRU: _____
 Sponsor: Resources Committee Component: _____
 Requester: Resources Committee Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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						
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CHANGE IN REVENUES ()						
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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 (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: SENATE RESOURCES COMMITTEE

Phone: 465-2828

Senator: 
SENATOR JOHN TORGERSON, CHAIR

Date: 2/9/01

ALASKA STATE LEGISLATURE

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SENATE RESOURCES COMMITTEE

SPONSOR STATEMENT

CSSJR 7(RES)

"Reinstate Wilderness Study Prohibition"

In 1981, President Reagan's Secretary of the Interior issued a directive stating that BLM land in Alaska may not be considered for wilderness reviews as required by Section 603 of the Federal Land Planning and Management Act of 1976. The purpose of this directive was to comply with Congressional mandates in the Alaska National Interest Lands Conservation Act (ANILCA).

Sections 1320 and 1326 of ANILCA are often referred to as the "no more clauses" because they exempt Alaska from future federal wilderness designations and withdrawals exceeding 5,000 acres. ANILCA Section 1326 (b) states that no further studies of Federal lands in the State of Alaska shall be conducted for the purpose of establishing a conservation system unit, national recreation area, national conservation area, or for related or similar purposes.

Senate Joint Resolution 7 was introduced in response to Secretary of the Interior Bruce Babbitt's last-minute rescission of the 1981 directive. This rescission is disturbing for a variety of reasons. It is contrary to an Interior Department policy that has been an important tool for management and development of Alaska's resources for nearly 20 years. The rescission was done without public comment or consultation with Alaska. Finally, with the absence of this policy, BLM will be able to manage its roadless land in Alaska as de facto wilderness areas in the expectation that Congress will eventually enact approving legislation.

Sponsor

BUREAU OF LAND MANAGEMENT LAND REVIEWS

ic notice, public hearings, view, as to their suitability for wilderness, all lands within the boundaries of the National Wildlife Refuge System established by this Act and

and the President shall consult with the Secretary and the Representatives of the States and the District of Columbia in carrying out the provisions of sections 3 (c) and 4 (c) and shall advise the Congress of the areas within seven years

as affected by the Act, and shall be construed as affecting the National Park System or unit of the System, or any other unit of the System, unless the Act or other law specifically provides otherwise. Until Congress provides otherwise, a recommendation shall be deemed to be a recommendation of the Secretary.

PROGRAM

Policy set forth in the first section of this Act for the preservation of the natural and cultural resources and antiquities of national significance. On or after August 21, 1935 (49 Stat. 1008), the Secretary shall protect and interpret for the benefit and inspiration of the people the resources and objects of national significance and historic human use in Alaska. The Secretary may, in his discretion, authorize or permit any person or Native Group, or any other person or organization, to participate in the management of cultural resources, and the Secretary may, in his discretion, provide for the use of such resources in the United States. The Secretary shall make available personnel to assist in the management of buildings, facilities, and personnel to train personnel in the management, reservation, demonstra-

EFFECTS

As construed as limiting or restricting the authority of the States or the District of Columbia concerning appropriation or disposal of lands within the State of Alaska.

Nothing in this Act shall affect Federal or State jurisdiction, or the authority of the States or the District of Columbia over resources develop-

ment in Alaska, except as specifically provided in this Act. Nothing in this Act shall be applicable to the various activities in which the States develop or participate or to the authority of the States to exercise licensing or

SEC. 1320. Notwithstanding any other provision of law, section 603 of the Federal Land Policy and Management Act of 1976 shall not apply to any lands in Alaska. However, in carrying out his duties under section 201 and section 202 of such Act and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law.

AUTHORIZATION FOR APPROPRIATION

SEC. 1321. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1980. No authority to enter into contracts or to make payments or to expend previously appropriated funds under this Act shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

EFFECT ON PRIOR WITHDRAWALS

SEC. 1322. (a) The withdrawals and reservations of the public lands made by Public Land Orders No. 5653 of November 16, 1978, 5654 of November 17, 1978, Public Land Orders numbered 5696 through 5711 inclusive of February 12, 1980, Federal Register Documents No. 34051, of December 5, 1978 and No. 79-17803 of June 8, 1979 and Proclamations No. 4611 through 4627, inclusive, of December 1, 1978, were promulgated to protect these lands from selection, appropriation, or disposition prior to the enactment of this Act. As to all lands not within the boundaries established by this Act of any conservation system unit, national conservation area, national recreation area, or national forest addition, the aforesaid withdrawals and reservations are hereby rescinded on the effective date of this Act, and such lands shall be managed by the Secretary pursuant to the Federal Land Policy and Management Act of 1976, or in the case of lands within a national forest, by the Secretary of Agriculture pursuant to the laws applicable to the national forests, unless otherwise specified by this Act. As to the Federal lands which are within the aforesaid boundaries, the aforesaid withdrawals and reservations are, on the effective date of this Act, hereby rescinded and superseded by the withdrawals and reservations made by this Act. Notwithstanding any provision to the contrary contained in any other law, the Federal lands within the aforesaid boundaries established by this Act shall not be deemed available for selection, appropriation, or disposition except as expressly provided by this Act.

(b) This section shall become effective upon the relinquishment by the State of Alaska of selections made on November 14, 1978, pursuant to the Alaska Statehood Act which are located within the boundaries of conservation system units, national conservation areas, national recreation areas, and forest additions, established, designated, or expanded by this Act.

43 USC 1784.
43 USC 1782.
Recommendations to Congress.
43 USC 1711, 1712.

16 USC 3208.

16 USC 3209.

43 USC 1701 note.

48 USC note prec. 21.

ANILCA

ACCESS

Nonfederally
owned lands.
16 USC 3210.

SEC. 1323. (a) Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of Agriculture may prescribe, the Secretary shall provide such access to nonfederally owned land within the boundaries of the National Forest System as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: *Provided*, That such owner comply with rules and regulations applicable to ingress and egress to or from the National Forest System.

(b) Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of the Interior may prescribe, the Secretary shall provide such access to nonfederally owned land surrounded by public lands managed by the Secretary under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701-82) as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: *Provided*, That such owner comply with rules and regulations applicable to access across public lands.

YUKON FLATS NATIONAL WILDLIFE REFUGE AGRICULTURAL USE

16 USC 3211.

SEC. 1324. Nothing in this Act or other existing law shall be construed as necessarily prohibiting or mandating the development of agricultural potential within the Yukon Flats National Wildlife Refuge pursuant to existing law. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law. Any such development permitted within the Yukon Flats National Wildlife Refuge shall be designed and conducted in such a manner as to minimize to the maximum extent possible any adverse effects of the natural values of the unit.

TERROR LAKE HYDROELECTRIC PROJECT IN KODIAK NATIONAL WILDLIFE REFUGE

16 USC 3212.

SEC. 1325. Nothing in this Act or the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) shall be construed as necessarily prohibiting or mandating the construction of the Terror Lake Hydroelectric Project within the Kodiak National Wildlife Refuge. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law.

FUTURE EXECUTIVE ACTIONS

16 USC 3213.

SEC. 1326. (a) No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

(b) No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.

Publication in
Federal
Register;
notification of
Congress.

SEC. 1327. Nothing in additional requirement operation of the transp and approved by the Co Transportation Act of 1 imposing any limitation cerning such system.

PUBLI

SEC. 1328. (a)(1) Subj made pursuant to the A (44 Stat. 1364), May 14, Stat. 1097), which were within the time provide in Alaska that was ave statutes when such entr hundred and eightieth (except where provided subsection, or where tl adjusted pursuant to su approval pursuant to the the time the adjustment.

(2) Where an applicati unit of the National Par Refuge System, or a un System in the Tongass before the effective date land was not withdraw Native Claims Settleme land which has been pa which on or before th tentatively approved, pa Alaska pursuant to appl to section 11(a)(1)(A) of from those lands made the Act by any Native Vi 11(b) of such Act, parag of this section shall not cated pursuant to the re 1328(a)(1) hereof, the A other applicable law.

(3) Paragraph (1) of t apply and the applicat requirements of the Act on or before the one effective date of the Act.

(A) a Native Corp the Interior (the Se entitled to the land c withdrawn for sele Alaska Native Claim

(B) the State of stating that the land access to lands owne a political subdivisio thereon, or to a pu



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Babbitt rescinds directive on Alaska land

By Don Hunter
Anchorage Daily News
(Published January 19, 2001)

In one of his last official acts before the Clinton administration fades into history, Interior Secretary Bruce Babbitt on Thursday rescinded a 19-year-old directive that prevented the Bureau of Land Management from considering any of the agency's 80 million acres in Alaska for designation as wilderness.

Babbitt's maneuver apparently has little immediate effect. It would only allow BLM to review and consider recommending that some of its Alaska holdings be included the National Wilderness Preservation System. Only Congress can add land to the wilderness system.

Still, the rescission of a ban imposed by President Reagan's Interior Secretary James Watt in 1981 was welcomed by environmentalists and derided by Alaska Sen. Frank Murkowski.

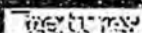
"It's not surprising that on his way out the door, without public comment or state consultation, that Secretary Babbitt would attempt to overturn what had been settled department policy for nearly two decades," Murkowski said. He added that he hopes President-elect George W. Bush's administration will seek public comment on Babbitt's decision.

However, Deborah Williams of the Alaska Conservation Foundation said Babbitt's decision actually encourages more public discussion of whether some BLM land is best reserved as wilderness.

"BLM manages certain lands in Alaska that have premier wilderness values," Williams said. "Alaskans and all Americans should be able to

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consider major management options for our public lands to achieve the highest and best use of those lands." Dropping Watt's order, she said, "allows us to achieve the highest and best use of our public lands in Alaska."

Marilyn Helman, Babbitt's special assistant for Alaska, said Babbitt's move will allow BLM land to undergo the same "normal planning process" used by other Interior Department agencies to decide how public land should be designated.

In a two-page letter to the head of the BLM, Babbitt says Watt's directive "takes an unduly restrictive approach."

"Over the years since it was signed, interest in providing the legal protection of the Wilderness Act to suitable areas of the public land, including Alaska, has not abated," Babbitt said. The "BLM should not be arbitrarily foreclosed from considering such issues."

As an example, Babbitt said the BLM is conducting a management plan for land around the Colville River in northern Alaska. It is considering such issues as high concentrations of raptors that live in the bluffs above the river and the scenic, recreational and scientific resources in the area.

Babbitt visited the Colville in 1997 and spent part of a day watching hawks and falcons through binoculars along the river.

The agency should be able to consider wilderness values as well and would be able to do so after Watt's directive is revoked, he said in the letter.

Reporter Don Hunter can be reached at dhunter@adn.com or 257-4349.

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