

SB

1900



# STATE OF ALASKA

## Cooper Landing Fish & Game Advisory Committee

Frank H Murkowski, Governor

Bill Stockwell, Chair  
PO Box 721  
Cooper Landing, AK 99572-0721  
Phone: 595-1540

March 20, 2004

Honorable Carl Morgan  
Chair, House Community and Regional Affairs Committee  
State Capitol Building,  
Juneau, AK 99801-1182

SENT BY FAX 2 PAGES

SUBJECT: Senate Bill 190

Dear Chairman Morgan and Committee Members

At our meeting of March 18, 2004, the members of the Cooper Landing Advisory Committee voted unanimously to OPPOSE Section 4 of Senate Bill 190, changing the KRSMA Advisory Board Membership, and asked me to relay this opposition to our District Representative Paul Seaton which I did. His office informed me that your House Committee would be holding a hearing on March 23 and suggested that I contact you direct with our concerns.

The Cooper Landing AC SUPPORTS adding Lower River Lands to KRSMA, Section 2 of SB 190, and hope more additions can continue to be added in the future. However, we strongly feel that the proposed change to the voting membership of the KRSMA Advisory Board, Section 4 of SB 190, is certainly not in the best interest of Community of Cooper Landing and is bad policy for all Alaskans. We ask you to OPPOSE this section and AMEND TO REMOVE Section 4 before enactment of SB 190.

Cooper Landing is an unincorporated community whose residents depend on the health of the Kenai River Watershed and its adjacent land for their economic well-being and quality of life. While our voting population is small, much of the river's resources and viable habitat are in our area. The Community has depended for many years on good working relationships with ADF&G, DNR Lands and Parks, the Kenai National Wildlife Refuge, and the Forest Service for the management of our area's most vital resources. As proposed in Section 4 of SB 190, these land managers and resource experts would no longer vote on Kenai River issues vital to Cooper Landing while leaving the Municipalities of Soldotna, Kenai and the Borough as voting members. This change would shift the power to manage the Kenai River to the population base at the mouth of the river and be to the detriment of the residents of the Upper Kenai River and all Alaskans and other users in general.

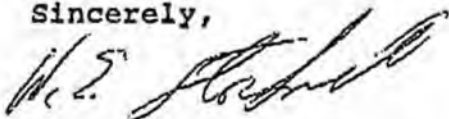
PAGE 2 COOPER LANDING ADVISORY COMMITTEE MARCH 20, 2004

We believe that the changes proposed in Section 4 of SB 190 violate the original intent of the 1984 KRSMA Act. In Section 1, Findings, of the 1984 Act it states: "A multitude of state and federal agencies with jurisdiction over various aspects of the river and adjacent public lands creates a labyrinth of regulation without effectively preventing the river's deterioration. The river's fishery and wildlife are its most important resources. The highest priority uses of the river and its adjacent land derive from its fishery and wildlife which must be protected and preserved to ensure their renewability and continued usefulness. To solve the river's problems a need exists for a comprehensive management plan for the river and its adjacent land and for coordinated management."

Coordinated management of the Kenai River Watershed requires that all land and water managers, resource managers, users and the public have equal seats at the table and that all have an equal voice and vote. To do otherwise violates the original findings of the act. Depriving all governmental entities except municipalities from vote is both unwise and poor public policy. While the health the Kenai River is of importance to adjacent municipalities, their expertise is not in management of fish and wildlife habitat and resources but in the development of land for growth and tax purposes. To leave the municipalities adjacent to the Kenai River as the only governmental entities with vote certainly seems to violate the finding that "The river's fishery and wildlife are its most important resources."

Thank you for allowing us this opportunity to provide testimony on Senate Bill 190 and thank you for examining our concerns and comments. We ask that Section 4 of SB 190 be removed in fairness to all Alaskans. If you need more information or have any questions, please contact Bill Stockwell by phone or fax at 595-1540.

Sincerely,



Bill Stockwell, Chair

cc: Representative Paul Seaton  
ADF&G Board Support



**COOPER LANDING**  
**Community Club**  
**P.O. Box 508**  
**Cooper Landing, Alaska 99572**

**President** *Mona Painter*

**Vice President** *Jack Britton*

**Secretary/Treasurer** *Mary Fort*

March 31, 2004

The Cooper Landing Community Club was organized and incorporated in 1949 for the good of the community. The club holds title to the community center, museum site, cemetery, and rifle range recreation site and is permitted for Helen Rhode Park. State and federal grants to move the community hall, build the fire hall and library, buy a new ambulance, etc. have come through the CLCC.

(907) 695-1248  
 Painter@ardic.net

Honorable Carl Morgan  
 Chair, House Community and Regional Affairs  
 State Capitol Building  
 Juneau, AK 99801-1182

Dear Chairman Morgan:

At our March 25, 2004 meeting, we discussed further Senate Bill 190 and in particular this night the matter of representation of the Kenai River Special Management Area board for our area.

Dave Westerman was asked by people in Cooper Landing to represent the upper Kenai River, Cooper Landing area along the lake and river when Jim Richardson stepped down from the board. He was a temporary Fish and Game employee at the time. Since then, he has become a full-time state employee for Fish and Game and the passing of SB 190 would mean he could not be a voting member of KRSMA.

As part of the discussion at our March 25 meeting, the March 20 letter sent to you by the Cooper Landing Fish and Game Advisory Committee was referred to. The result of all the discussion and testimony was two adopted motions:

1. The Cooper Landing Community Club voted to adopt the March 20, 2004 letter from the Cooper Landing Fish and Game Advisory Committee in regard to paragraph two supporting adding the lower river lands to KRSMA and opposing Section 4 of Senate Bill 190 in regards to changing the voting membership not allowing government employees to be voting members. It was stated that if the agency representatives (Fish and Game, etc.) were denied the vote and not government employees across the board that would be a better plan. Agency representatives would still be there to offer advice.
2. The Cooper Landing Community Club voted to send a letter of support for Dave Westerman as our local representative regardless of who he was employed by.

Thank you.  
 Sincerely,

*Mona Painter*

*Copies to Rep. Seaton  
 Rep. Wolf*

**Subject: Testimony on SB 190 for House CRA**

**Date:** Mon, 22 Mar 2004 23:04:39 -0900

**From:** <akscitec@alaska.net>

**To:** Representative\_Carl\_Morgan@legis.state.ak.us

March 22, 2004

Honorable Carl Morgan  
Chair, House Committee on Community and Regional Affairs  
State Capitol  
Juneau, Alaska 99801

Subject: SB 190

Dear Representative Morgan,

This is testimony provided by the Friends of Cooper Landing (FOCL), for the House Committee on Community and Regional Affairs hearing on SB 190, Tuesday, March 23, 2004.

FOCL is a broad-based community organization, which acts to represent the majority position of Cooper Landing residents. We know from long experience that the Kenai River is one of the most important elements of the Kenai Peninsula economy. Maintaining the health of the Kenai River and its watershed is supremely important to the public.

SB 190 attempts to politicize management of the Kenai River Special Management Area Board, by removing voting privileges from the responsible management agencies. This unwisely meddles with a system that has been refined in practice and proven to work well. SB 190 seeks to benefit special interests that do not represent the best interest of the public. Good health of the Kenai River and its watershed is placed at risk by this bill.

FOCL is strongly opposed to this legislation, and requests that it not be supported by you and other members of the Committee.

Thank you,

Bob Baldwin, President  
Friends of Cooper Landing  
P.O. Box 815  
Cooper Landing, AK 99572  
<akscitec@alaska.net>

2020

23-LS0961\Q  
Bullock  
4/28/04

**HOUSE CS FOR CS FOR SENATE BILL NO. 190( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**

**Referred:**

**Sponsor(s): SENATOR WAGONER**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act adding certain state-owned land and water to the Kenai River Special**  
2 **Management Area; relating to the mineral estate of the state-owned land and water in**  
3 **the Kenai River Special Management Area; relating to the Kenai River Special**  
4 **Management Area advisory board; and providing for an effective date."**

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

6 **\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
7 to read:

8 **PURPOSE.** The purpose of this Act is to further the implementation of the Kenai  
9 River Comprehensive Management Plan by making additions of certain state-owned land and  
10 water as described in this Act to the Kenai River Special Management Area.

11 **\* Sec. 2.** AS 41.21.502(a)(4)(L) is amended to read:

12 (L) Other Lower River Land

13 **Township 5 North, Range 9 West, Seward Meridian**

14 **Section 22: Lots 4, 9, 10, NE1/4SW1/4**

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Township 5 North, Range 10 West, Seward Meridian

Section 6: Lot 8

Section 7: Lots 5 - 7, 15

Section 18: Lots 1, 2, 4 - 6,

Tract A, Larrv's Fishing Hole Subdivision, Plat  
No. 90-42

Government Lots 4 - 7, 10 - 13

NE1/4SW1/4

E1/2NW1/4

Section 19:

Tracts A and B, Timberland Terrace Phase 1  
Subdivision, Plat 97-26

Lot 4, Kobylarz Subdivision, according to the  
official plat filed under Plat No. 92-24, Kenai  
Recording Office

Beginning at the section corner common to  
Sections 19, 20, 29, and 30, Township 5 North,  
Range 10 West, Seward Meridian, traverse west  
along the section line common to Sections 19 and  
30 a distance of 1320 feet, thence north along the  
1/16 section line a distance of 1420 feet to Corner  
No. 1 and the point of beginning, thence west 100  
feet to Corner No. 2, thence north to the thalweg  
of the Kenai River and Corner No. 3, thence east  
along the thalweg of the Kenai River to the point  
of intersection with 1/16 section line and Corner  
No. 4, thence south along the 1/16 section line to  
Corner No. 1, and the point of beginning, located  
in the Kenai Recording District, as may be  
modified by a record of survey accepted by the  
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Lot 16

Section 30: Tracts A, J, and K, Channel Shores Subdivision, Plat No. 85-102

Section 31: Lots 2, 3, and 11, excluding the following subdivisions, as shown in record of survey no. 96-7: Halcyon Subdivision, Lot 1, Block 1, plat of survey no. K-1706; Halcyon Subdivision Lot 5, Block 1, plat of survey no. 73-9; Halcyon Subdivision plat of survey no. 76-75; Halcyon Subdivision Addition No. 4, plat of survey no. 77-47; Halcyon Subdivision Addition No. 5, plat of survey no. 77-82; Halcyon Subdivision No. 3, plat of survey no. 78-25; Halcyon Subdivision Amended Plat Lot 1-B, Block 1, plat of survey no. 78-96; Halcyon Subdivision Addition No. 7, plat of survey no. 79-155; Halcyon Subdivision Addition No. 8, plat of survey no. 83-174; Halcyon Subdivision Addition No. 9, plat of survey no. 84-47; Halcyon Subdivision No. 10, plat of survey no. 84-244; Halcyon Subdivision No. 9, plat of survey no. 86-98RS; Halcyon Subdivision No. 9, plat of survey no. 86-99RS; Halcyon Subdivision No. 11, plat of survey no. 92-41; Halcyon Subdivision No. 8 Amended, plat of survey no. 92-72; and Halcyon Subdivision No. 12, plat of survey no. 93-8; and excluding that portion of Government Lot 3 east of Daisy Drive conveyed by warranty deed recorded March 10, 1989, in book 343, page 15, Kenai Recording Office.

Section 32: Lot 1-B-1, ASLS No. 97-25, a subdivision of Lot 1-B, Fisherman's Square Subdivision, Addition No. 1, within the W1/2SW1/4;

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Section 33: Lot 6-B, Mullen Homestead River

Addition Phase 1, Plat No. 97-89;

Section 34: Lot 7, NE1/4SE1/4

Township 5 North, Range 11 West, Seward Meridian

Section 1: Lots 9 and [LOT] 10

Section 11: Tract A-1A, Cone Tracts; Lot 3,

excluding that portion north of the south right-of-

way boundary of the Beaver Loop Road and all

land west of and including the Cone Tracts A-1A

and A-1B Subdivision and SE1/4NW1/4, and the

N1/2NW1/4, excluding that portion of the south

right-of-way boundary of the Beaver Loop Road

and all land west of and including the Cone Tracts

A-1A and A-1B Subdivision

Section 12: Lots 1 - 3, 7 - 10, 13

N1/2SE1/4

SE1/4NE1/4

NE1/4SW1/4

N1/2SW1/4SE1/4

Section 13: Lot 1

SW1/4NW1/4

Section 14: Lots 2, 7

Section 16: Lots 1 - 10

SE1/4

NW1/4NW1/4

SE1/4SW1/4

Section 24: That portion of Lot 11 within LSH 148

Section 25: Lot 3

Section 36: That strip of land between the line of

ordinary high water of the Kenai River and EPF

21-11. Block 1.

1 \* Sec. 3. AS 41.21.502(c) is amended to read:

2 (c) The mineral estate in the state-owned land and water described in (a)  
3 of this section is open to [EXCEPT FOR] oil and gas leasing under AS 38.05.180.  
4 The [, THE] mineral estate in the state-owned [STATE-OWNED] land and water  
5 described in (a) of this section is closed to mineral entry under AS 38.05.181 -  
6 38.05.275.

7 \* Sec. 4. AS 41.21.510(b) is amended to read:

8 (b) The advisory board appointed under this section shall be representative of  
9 user groups, resident property owners, municipalities [, AGENCIES OF THE STATE  
10 AND FEDERAL GOVERNMENTS], and other interest groups. An employee,  
11 elected official, or other representative of a federal or state government may  
12 be appointed to the advisory board. A majority of the members of the advisory  
13 group shall be residents of the Kenai Peninsula Borough.

14 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

SB 190

Amendment # 7

pg 5 line 11 eliminate "not"

passed 11-2

# ALASKA STATE LEGISLATURE



Official Business

## SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Resources Committee
- Vice-Chair, Senate Community and Regional Affairs Committee
- Member, Legislative Council

Session: January – May

State Capitol, #427

Juneau, AK 99801

Phone: 907-465-2828 Fax: 907-465-4779

Interim: May – December

145 Main Street Loop; Suite 226


Kenai, AK 99611

Phone: 907-283-7996 Fax 907--283-3075

April 29, 2004

## MEMORANDUM

To: Representative Carl Morgan, Chairman  
House Community and Regional Affairs Committee

From: Senator Thomas Wagoner 

Subject: SB 190 Hearing

Now that SB 190 has been moved out of it's subcommittee, and we are under the 24-hour rule, I would appreciate your hearing Senate Bill 190 in the Community and Regional Affairs Committee at the earliest possible time.

You should have received any additional information as it came into my office, so I am just attaching the version of the bill I was given from the subcommittee.

Thank you.



Official Business

# ALASKA STATE LEGISLATURE

## SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Resources Committee
- Vice-Chair, Community & Regional Affairs
- Member, Legislative Council

Session: January – May  
State Capitol, #427  
Juneau, AK 99801  
Phone: 907-465-2828 Fax: 907-465-4779

Interim: May – December  
145 Main Street Loop; Suite 226  
Kenai, AK 99611  
Phone: 907-283-7996 Fax 907--283-8127

DATE: April 15, 2004

TO: Rep. Carl Morgan, Chair  
House CRA Committee

Rep. Kelly Wolf, Vice-Chair  
House CRA Committee

Rep. Pete Kott, Rep. Tom Anderson, Rep. Ralph Samuels, Rep.  
Sharon Cissna, and Rep. Albert Kookesh  
House CRA Committee Members

FROM: Senator Tom Wagoner 

RE: SB 190 – Kenai River Special Management Area

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This bill was filed at the request of members of the Kenai River Special Management Area (KRSMA) Board. Initially, it was the same language as the Senate Committee Substitutes for HB 165 (from the 22<sup>nd</sup> session) sponsored by former Rep. Ken Lancaster.

In January 2004, members of KRSMA indicated that language in the bill eliminating agency representatives from voting was of concern and so I amended the bill to provide for agency representation in an ex-officio capacity.

The bill passed the Senate and was referred to the House CRA Committee on March 8, who in turn assigned it to a subcommittee chaired by Rep. Wolf on March 23. Rep. Wolf sent a memorandum (dated February 3, 2004) saying he wanted to eliminate the section of the bill that revised the representation of federal and state agencies.

Memorandum (-continued)  
April 16, 2004

Page Two of Two

Further, he asked to insert a new section in the bill that would prohibit fishing derbies – apparently directed toward the Kenai River Classic that was initiated by U.S. Senator Ted Stevens.

I asked the KRSMA Board to review this and advise me.

Last night, they had a meeting and discussed SB 190. Two members of my staff participated from Juneau.

The result of that meeting is that the KRSMA Board continues to support SB 190 as written, by a vote of 10 yeas to 3 nays.

I respectfully request that the Committee consider the wishes of the local representation of the board and act accordingly.

-2- Attachments:

- Rep. Wolf memo dated Feb. 3, 2004
- Rep. Wolf proposed amendment

Representative  
Kelly Wolf  
145 Main Street Loop Road.  
Suite 221  
Kenai, Alaska 99611  
(907) 283-2690  
Fax: (907) 283-2763

## Alaska State Legislature



While in Session  
State Capitol, Room 418  
Juneau, Alaska 99801-1182  
(907) 465-2693  
Fax: 465-3835  
Toll Free:  
1 866-463-2693

House District 33

### House of Representatives

## MEMORANDUM

To: Senator Tom Wagoner  
From: Representative Kelly Wolf  
Date: February 3, 2004  
Re: SB 190 Amendment

A handwritten signature in cursive script that reads "Kelly".

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In the attempt to work together, I'm proposing the following amendment to SB 190 in an effort to satisfy concerns of Kenai Peninsula residents. At the same time this will maintain the long-standing integrity of the KRSMA board through allowing the continued public and agency participation of one of the most available public resources we have on the Kenai Peninsula. In this same endeavor, I'm working to resolve the growing issue that has been of concern to Peninsula residents regarding the events taking place within this critical habitat area. By making these KRSMA recommendations a matter of law we further protect the Kenai River.

Amendment to SB 190

Page 5 Line 7 – 14

Delete Sec. 4

Add new Sec. 4 as follows:

All Derby style events on the Kenai River should be limited to those which do not occur at the peak of a particular fishery and are not designed to attract large numbers of additional fishers to the river, which do not occur during periods of projected low fish stocks that have been identified by the ADF&G for protection, and which are conducted by a 501 (c) 3 non-profit group that returns all of the funds generated to the Kenai River for conservation or education purposes, minus a reasonable deduction for event overhead and administrative costs.

Definitions:

"Fish derby" means a contest in which prizes are awarded for catching fish.

"Prizes" would be defined as any item of value.

"Education purposes" excludes the attempt to influence legislation or referendums and regulatory bodies.

# ALASKA STATE HOUSE OF REPRESENTATIVES

Representative Carl Morgan, Chair  
Representative Kelly Wolf, Vice Chair  
Representative Tom Anderson  
Representative Ralph Samuels  
Representative Pete Kott  
Representative Sharon Cissna  
Representative Albert Kookesh



Alaska State Capital, Room 408  
Juneau, AK 99801-1182  
Telephone: (907) 465-3882  
Fax: (907) 465-4527  
representative\_carl\_morgan@legis.state.ak.us

## HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS Representative Carl Morgan, Chair

### AGENDA

State Capital 124  
March 23, 2004  
8:00 am – 10:00 am

- Call to Order
- SB 190 Kenai River Special Management Area
- Next meeting is **Thursday at 9:00 am**  
HB 322 Municipal Initiative and Referendum Elections
- Adjourn

## BYLAWS

### KENAI RIVER SPECIAL MANAGEMENT AREA ADVISORY BOARD

The Kenai River Special Management Area Advisory Board was originally created in 1985 under the authority of A.S. 4 .510. The original Board was charged with developing a comprehensive management plan for the Kenai River. The original Comprehensive Plan was completed and the Board disbanded in 1986. In 1988, a new Board was appointed to help advise the Department of Natural Resources on implementation of the Plan. In July of 1995, Governor Knowles reappointed the Board and redirected the Board to address a series of specific new goals including updating the Plan. These by-laws reflect the changed scope of work for the Board.

#### I. PURPOSES

A. The purposes of the Kenai River Special Management Area Citizens Advisory Board (hereinafter referred to as "the Board") are:

1. To advise the Governor of the State of Alaska and the Commissioner of the Department of Natural Resources on issues relating to the Kenai River watershed other than matters related to fisheries allocation;
2. To update the Kenai River Management Plan and monitor implementation of the new Plan;
3. To propose changes to regulatory processes to affect better interagency coordination;
4. To propose programs to educate the public about the importance of habitat protection along the Kenai River;
5. To review and encourage the adoption of the State, federal and local regulations which protect the habitat along the Kenai River while considering the legitimate rights of both public and private property owners;
6. To represent the broad public interest including those of property owners, the Kenai Peninsula Borough, municipalities, agencies of the State and Federal governments, and other interested groups, on issues related to the Kenai River;
7. To hold public meetings, consult with and solicit recommendations from the public;
8. To advise the Governor and the Commissioner of the Department of Natural Resources of regulations necessary to achieve implementation of the plan;
9. To address management issues, review and make recommendations on budgeting priorities, permits and other field operations or policy matters, and advise the Commissioner of the Department of Natural Resources of such recommendations;
10. To encourage the development of standard designs for boardwalks, docks, bank stabilization and other improvements that restore and protect habitat which may be permitted on an expedited basis; and
11. To review and make recommendations regarding major new permit applications not covered by standard designs for docks, boardwalks, bank stabilization and other within the Kenai River Special Management Area.

B. Other purposes of this advisory board are:

1. To provide a forum for the collection and expression of public opinions and recommendations on matters relating to the Kenai River Special Management Area and its watershed;
2. To promote the protection of resources of the Kenai River Special Management Area, including its aesthetic values, vegetation, wildlife, soils, fishery, water, educational, historic, and outdoor recreation opportunities ;

3. To inquire into matters of public interest relating to the Kenai River Special Management Area to bring matters of interest to the attention of the public; to appear and testify at public hearings as representatives of the Board;
4. To make recommendations, when the Board deems appropriate, to local, state, and federal agencies and to legislative bodies relating to issues affecting the Kenai River other than matters of fish allocation;
5. To promote interpretation and public awareness of the natural and human history of the Kenai River Special Management Area;
6. To increase public awareness and understanding of human impacts on the Kenai River Special Management Area and its resources;
7. To promote cooperation between the Kenai Peninsula Borough, municipalities, the Division of Parks and Outdoor Recreation, and other State and Federal organizations;
8. To propose and advise on cooperative agreements and land acquisitions or exchanges; and
9. To enlist public and legislative support for the Kenai River Special Management Area's policies and programs.

## II. PUBLIC ATTENDANCE

Meetings of the Board are open to the public. The Board shall prescribe rules of procedure and decorum while specifying limits, and the manner of, public participation in the meetings, as further delineated under Section VI. F.

## III. MEMBERSHIP

There shall be seventeen members on the Board consisting of public and agency members. Public members shall be selected to ensure representation of the broad spectrum of public interests involved with or affected by the Kenai River and to prevent domination of the Board by a single viewpoint unrepresentative of the river's broad constituency. It is the intention of these Bylaws that the Board's membership reflect representation of such adjacent geographical areas as the Cooper Landing area, the Sterling area, the cities of Soldotna and Kenai, as well as the river users in south central Alaska in general. The agency members shall be from: the Kenai Peninsula Borough, the City of Soldotna, the City of Kenai, the US Forest Service, the US Fish and Wildlife Service, the Alaska Department of Fish and Game, the Alaska Department of Natural Resources, and the Alaska Department of Environmental Conservation. The membership shall also reflect, by demonstrated interests, expertise, and advocacy for the river, various activities and skills such as fishing and hunting, motorized and non-motorized boat use, back-country hiking, trail-related use by hikers, runners, cyclists, and horseback riders, Nordic skiing, canoeing and kayaking, nature observation, natural sciences, outdoor education, appropriate commercial uses and concessions, and real estate and land use planning expertise.

Any Board member may, of course, represent viewpoints of more than one such area, activity, or skill. It is recognized that the Board's membership cannot accurately reflect all opinions of the interested populace on every issue, but there shall be no deliberate concentration of specific viewpoints on the Board which would be contrary to the balanced representation specified in these Bylaws. Each Board member carries the responsibility to represent the broad public interest and no member shall consider himself or herself merely an advocate of a specific group.

#### IV. NOMINATIONS AND APPOINTMENTS

A. The Commissioner of the Department of Natural Resources shall appoint the nine citizen members of the Board. Beginning December, 1997, four members shall be appointed for two-year terms and five members shall be appointed for three-year terms. Thereafter, the term of appointment shall be two years, with all terms scheduled to expire on October 1 of the appropriate year.

B. Each agency may select its representative for its position. One alternate may be appointed by each agency. The Commissioner of the Department of Natural Resources retains the right to approve or reject the agency's nominations for representative and alternate.

C. At least three months prior to expiration of the term of office of an incumbent member of the Board, the Board, through its nominating committee, shall solicit applicants from the public, from user groups, from area communities, and from the Commissioner of the Department of Natural Resources to fill the anticipated vacancy. Notice of the vacancy and the application procedures shall be published in local newspapers. The Board shall discuss the applications and shall, no later than one month prior to expiration of the term of office, nominate to the Commissioner no fewer than three individuals for each vacancy. The Commissioner shall, with thirty (30) days, appoint to each vacancy one member from among those nominated, the appointment to be effective upon expiration of the term of office of the incumbent. A Board member may be reappointed by the solicitation and nomination process specified in this paragraph.

D. If a Board vacancy occurs before the expiration of a member's term, the Board shall make three nominations from the current application list at any regular or special meeting. Any interested member of the public may be placed on an application list by submitting formal application to the Board. Such nominations shall be immediately forwarded to the Commissioner for appointment, which shall be made within fifteen (15) days following submission of the nominees to the Commissioner. An appointee to a vacant Board position shall serve the unexpired term of the person whose vacancy has been filled.

E. Any member desiring to resign from the Board shall submit his or her resignation in writing to the President.

#### V. REMOVAL OF BOARD MEMBERS

A. Removal Upon Unexcused Absence. A vacancy in the seat of any member may be declared to exist by an eleven (11) member vote of the entire Board if that member has, without previously being excused, failed to attend three regular meetings of the Board within any twelve month period, or two consecutive meetings.

B. Removal for Cause. A Board member may be recommended for removal for cause by an eleven (11) member vote of the entire Board. Upon approval of that action by the Commissioner, the member shall be removed and the seat declared vacant. Cause for removal of a Board member shall be limited to the following:

- 1) flagrant repeated violations of the rules and procedures developed by the Board for conduct of Board and Board committee meetings and
- 2) knowing violations of the Board Bylaws on conflict of interests.

C. Notice of Proposed Removal Action. Any motion that the Board remove any member under A or B above must be adopted by the Board as an agenda item for a regular or special meeting occurring at least one month after the motion is made to take such action. The member whose position is proposed to be declared vacant shall receive notice of the

proposed action at least twenty (20) days prior to the action, and shall be permitted to respond, in writing and orally, before such action is taken.

## VI. MEETINGS

A. Meetings shall be held on the third Thursday of the month. The Board may establish other meeting schedules as it deems appropriate by majority vote. Rules and procedures governing all such meetings of the Board shall be according to the most recent edition of Robert's Rules of Order.

B. Special meetings may be called by the President (or, in his/her absence, the Vice President), or by any five board members, or by the Commissioner of the Department of Natural Resources. Special meetings may include polls by telephone or facsimile communications and voting for emergency situations.

C. The Commissioner of the Department of Natural Resources shall make a reasonable attempt to deliver notice of all special meetings to each member five (5) days prior to the meeting date. All notices of special meetings shall state the purposes thereof. All special meetings will be scheduled so as to ensure the greatest possible attendance by all members of the Board.

D. A quorum of the transaction of business at any regular or special meeting of the members shall consist of a majority of the members of the Board (9) with a minimum of not less than five members representing the public. Any number of members present at a duly called meeting constituting less than a quorum shall postpone the meeting to a time and place where a quorum is expected to be present. A majority of a quorum is required to approve items of business unless as otherwise required.

E. No person shall represent anything as the position of the Board, except when the position has been approved by vote of a majority of the quorum.

F. Each agenda for all Board meetings shall include public comment scheduled at a time during the agenda to ensure the greatest public participation. Testimony shall be limited to three (3) minutes.

G. The Board agenda shall be established by the President of the Board or in his or her absence, by the Vice President. Any Board member may, by request to the President, add items to the agenda. The Board agenda may be modified or amended by majority vote at the initiation of the meeting.

H. The Board will have an annual meeting in September of each year. In addition to the normal agenda, the following agenda items will be included: 1) elections of President and Vice-President; 2) review of the continuing need for standing and ad hoc committees; 3) appointment to committees; and 4) annual reports from the committees.

## VII. OFFICERS AND COMMITTEES

A. The officers of the Board shall be a President and one Vice President, each of whom shall be elected by the Board. Such other officers and assistant officers as are deemed necessary may be elected by the Board. Board officers shall serve without salaries.

B. The officers of the Board shall be elected annually by the Board. Each officer shall hold office until his or her successor has been duly elected, except that a vacancy shall be filled in the manner hereinafter provided.

C. Any officer elected by the Board may be removed from that office by an eleven (11) member vote of the full Board membership whenever, in its judgment, the best interest of the Park and the public would be served thereby. Any such removal shall not affect that person's membership on this Board.

D. A vacancy in any officer position because of death, resignation, removal, disqualification, or otherwise, may be filled by majority vote at any regular or special board meeting.

E. The President may appoint such standing, and ad hoc committees as necessary, in order to promote the efficient conduct of Board business and maximum active participation by the public. Each committee may have non-Board members as nonvoting participants, but shall have at least one member of the Board. Ad hoc committees are established to accommodate specific tasks over a prescribed period of time.

F. The President shall, in general, supervise and coordinate all the affairs of the Board and shall, when present, preside at all meetings of the Board.

## VIII. CONFLICT OF INTEREST

A Board member shall immediately disclose to the Board any significant conflict of interest involving any particular matter presented to the Board for action. A significant conflict of interest exists if the Board is asked to consider and recommend agency action, involving any real or personal property in which the Board member, or a member of his or her immediate family, holds a direct financial interest. If the Board determines a conflict of interest exists, the affected Board member shall not participate in discussion or vote on the issue. This conflict of interest policy shall not be construed to preclude Board members from participating in discussions or voting on issues in which the Board member has a general financial interest by as a result of being a member of a group or class of users affected by the proposed action.

Whenever any notice is required to be given to any member of the Board under the provisions of these Bylaws or under the provisions of the statutes of the State of Alaska, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance at a meeting by a member constitutes notice of the meeting.

## IX. AMENDMENTS

The Board may adopt, alter, amend, or repeal the Bylaws with an eleven (11) member vote of the entire board, with the concurrence of the Commissioner of the Department of Natural Resources.

## XI. SUPPORT

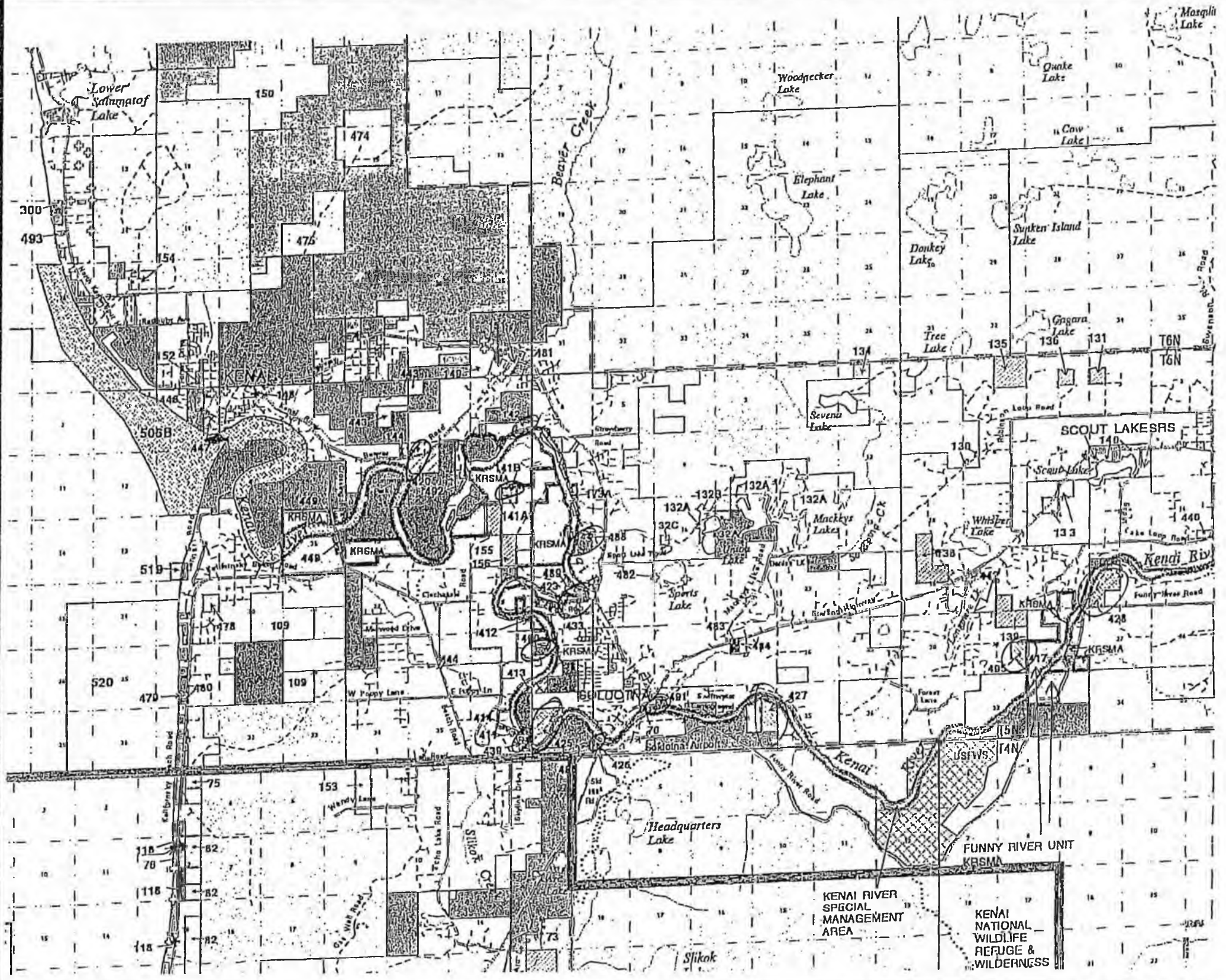
The State Department of Natural Resources shall furnish the following staff and services to the Board:

1. A designee to act as ex-officio as Secretary to the Board;
2. Upon request, furnish a meeting room;
3. Provide mail-out services for the notices and agendas of meetings, and provide public notice of the meetings by issuing press releases to all Kenai Peninsula radio stations and newspapers, as well as one Anchorage paper;
4. Prepare, circulate, and keep minutes of the meetings;
5. Furnish necessary maps, plans, and data for agenda items, as otherwise agreed from time to time;
6. In consultation with the President, the staff shall provide an agenda for each meeting.

Approved: *s/John Shively/* December, 1997

RE: SB 190, Kenai River Special Management Area  
Department of Natural Resources  
February 27, 2004  
Senate Resources Committee

- The subsurface estate is the dominant estate.
- EVOS Conservation Easements only apply to the portion of the estate acquired with EVOS funds.
- The use of lands acquired with EVOS funds is controlled by the terms of the conservation easements on them. The KRSMA designation does not affect the conservation easements.
- Conservation easements associated with EVOS lands apply to the specific land interest acquired. If the subsurface estate was not part of the purchase, the conservation easement cannot limit access to the mineral estate any more than the surface owner of any parcel of land can limit access to the minerals underlying his estate.
- Typically we did not acquire the subsurface estate with EVOS funds. If we did acquire the subsurface estate on any of the EVOS funded parcels, utilization of the minerals on that specific parcel would be limited by the terms of the Conservation Easement.
- Typically the oil and gas rights on many of the EVOS acquired parcels were previously conveyed to the State of Alaska via patent and as such would not be subject to the terms of the Conservation Easement.
- Generally, the Conservation Easement on EVOS acquired parcels is consistent with Parks Management intent and the KRSMA designation.
- The conservation easement has no effect on adjacent parcels.



SCOUT LAKESRS

KENAI RIVER  
SPECIAL  
MANAGEMENT  
AREA

FUNNY RIVER UNIT  
KRSMA  
  
KENAI  
NATIONAL  
WILDLIFE  
REFUGE &  
WILDERNESS

Lower  
Sattugatof  
Lake

Woodpecker  
Lake

Elephant  
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Donkey  
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KENAI RIVER SPECIAL MANAGEMENT AREA  
ADVISORY BOARD

AGENCIES

Pete Sprague  
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Kenai, AK. 99611  
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Fax: 224-3268

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Phone: 267-2131  
Fax: 267-2464

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Phone: 283-8222 (W)

Fax: 283-3014

Chris Degernes  
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Fax: 262-3717

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Phone: 269-6281  
Fax: 269-3098

KENAI RIVER SPECIAL MANAGEMENT AREA  
ADVISORY BOARD

	Term Expires
Joe Connors P.O. Box 1085 Sterling, AK 99672 e-mail: <a href="mailto:joe@kenairguide.com">joe@kenairguide.com</a>	Phone: 262-9496  10/01/05
Ted Wellman Davis, Wright, Tremaine 701 West 8th Avenue Suite 800 Anchorage, AK 99501 e-mail: <a href="mailto:tedwellman@dwt.com">tedwellman@dwt.com</a>	Phone: 257-5300 (W) 345-4654 Fax: 257-5399  10/01/05
Paul A. Shadura P.O. Box 1632 Kenai, AK 99611 e-mail: <a href="mailto:sabaka@ptialaska.net">sabaka@ptialaska.net</a>	Phone: 262-1771 (H) 283-5098 (W)  10/01/05
Jim Golden P O Box 1723 Soldotna, AK 99669 e-mail: <a href="mailto:jbgolden@alaska.net">jbgolden@alaska.net</a>	Phone: 262-7491 (W) 262-7482 (H)  10/01/04
David Westerman PO Box 751 Cooper Landing, Alaska 99572 e-mail: <a href="mailto:David_Westerman@fishgame.state.ak.us">David_Westerman@fishgame.state.ak.us</a>	Phone: 595-1576 262-9368 (W)  10/01/05
Roland Maw Box 530 Soldotna, AK 99669 e-mail: <a href="mailto:ucida@acsalaska.net">ucida@acsalaska.net</a>	Phone: 262-6101 (h) 260-9436 (w)  10/01/04
Ken Lancaster, President P O Box 104 Soldotna, Alaska 99669 e-mail: <a href="mailto:mavor@qci.net">mavor@qci.net</a>	Phone: 262-4591 (h) 260-6727 (w)  10/01/04
Richard Hahn P.O. Box 2754 Soldotna, Alaska 99669 e-mail: <a href="mailto:rdhahn@eagle.ptialaska.net">rdhahn@eagle.ptialaska.net</a>	Phone: 262-8575 (h)  10/01/04
Jeff King P.O. Box 2711 Soldotna, Alaska 99669 e-mail: <a href="mailto:lakerfsh@alaska.net">lakerfsh@alaska.net</a>	Phone: 262-4564  10/01/04

# STATE OF ALASKA

FRANK H. MURKOWSKI  
GOVERNOR

DEPARTMENT OF FISH AND GAME  
OFFICE OF THE COMMISSIONER

P.O. BOX 25526  
JUNEAU, AK 99802-5526  
PHONE: (907) 465-4100  
FAX: (907) 465-2332

February 20, 2004

The Honorable Thomas Wagoner  
Alaska State Senate  
Room 427, State Capitol  
Juneau, AK 99801

Dear Senator Wagoner,

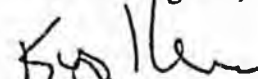
The Alaska Department of Fish & Game supports Senate Bill 190.

Section 2 of this bill adds lands purchased specifically for conservation purposes into the Kenai River Special Management Area (KRSMA). Most of these lands are wetlands not available for other uses, but which are critical habitats, and as such, we support their inclusion into the KRSMA.

Section 4 excludes employees, elected officials, or other representatives of a federal or state governments from being appointed to the Kenai River Special Management Area Advisory Board. Alternatively, it allows such individuals to serve as non-voting advisory members. We support this change. We do not believe it is appropriate for these individuals to hold voting seats, but do feel their input is necessary and valuable.

Please let me know if you have any questions.

With best regards,



Kelly Hepler  
Director, Division of Sport Fish  
Alaska Department of Fish and Game



**KENAI PENINSULA BOROUGH**

144 N. BINKLEY • SOLDOTNA, ALASKA • 98688-7599  
BUSINESS (907) 262-4441 FAX (907) 262-1092

**DALE BAGLEY  
MAYOR**

**VIA FAX: 907 465-4779**

Senator Tom Wagoner  
State Capitol, Rm. 427  
Juneau, AK 99801-1182

Dear Senator Wagoner:

I support the provisions of Senate Bill 190 that provides for more local control of the Kenai River Special Management Area Advisory Board by making state and federal agency representative ex-officio members of the board.

I strongly oppose having any additional land added to the Kenai River Special Management area.

Sincerely,

Dale Bagley  
Kenai Peninsula Borough Mayor



February 20, 2004

## CITY OF KENAI

*" Oil Capital of Alaska "*

210 FIDALGO AVE., SUITE 200 KENAI, ALASKA 99811-7794  
TELEPHONE 907-283-7535  
FAX 907-283-3014



Senator Thomas H. Wagoner  
State of Alaska  
State Capitol, #427  
Juneau, AK 99801

RE: **SENATE BILL 190 - LETTER OF SUPPORT**

Senate Bill 190 has been crafted to add certain state-owned lands into the Kenai River Special Management Area (KRSMA), as well as change the membership of the Board, identifying agency representatives as ex-officio non-voting members.

At their regular meetings of January 21 and February 18, 2004, the Kenai City Council reviewed Senate Bill 190 and the properties to be added to the Management Area.

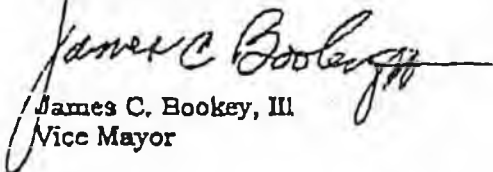
Addition of Properties: Of those properties proposed to be added to the Management Area, two are situated inside the boundaries of the City of Kenai -- Government Lot 9 and Tract A-1B. The Kenai City Council voiced no objections to these properties being added to the Management Area.

Board Restructuring: Though voting privileges will be removed, the proposed amendments continue to acknowledge the importance of inclusion of agency representation and participation on the Board. The Kenai City Council voiced no objections to these proposed amendments.

The Kenai City Council supports the proposed amendments to AS 41.21.502 and AS 41.21.510 included in Senate Bill 190. The Council also emphasizes the importance of the amendment to AS 41.21.501(b) to ensure the representation of user groups, resident property owners, and municipalities are those who are "adjacent to the Kenai River."

If you have any questions, please contact us at 283-8231.

CITY OF KENAI

  
James C. Hookey, III  
Vice Mayor

JCB/clf

**ADVISORY BOARD**

February 20, 2004

The Honorable Tom Wagoner  
Alaska State Legislature  
State Capital  
Juneau, AK 99801

Dear Senator Wagoner:

During the February 19<sup>th</sup> meeting of the Kenai River Special Management Area Advisory Board, a discussion of SB 190 was held. As you are aware, the KRSMA Board has long advocated for additional lands being added to the KRSMA, so that lands important for fish and wildlife resources and habitat and for recreation are protected for the benefit of all.

We support the addition of the 550 acres of land in the lower river that are identified in SB 190. We decided to offer no comments on the section of the bill relating to the Advisory Board makeup with the exception that we recommend that the wording be changed to permit a public member to serve as a voting member, even if they happen to be an employee of a state or federal agency. That person would not be serving as an agency representative, and under the current wording, one of our board members who was recommended by the community of Cooper Landing would be unable to serve as he also happens to be an employee of the state. We don't believe that it was your intention to prevent this type of service, and urge you to amend this section accordingly.

Thank you for the opportunity to comment on this bill.

Sincerely,

Ken Lancaster  
President, KRSMA Advisory Board



January 30, 2004

Honorable Tom Wagoner  
Senator, Alaska State Legislature  
State Capitol  
Juneau, Alaska, 99801-1182

Dear Senator Wagoner,

I met you and your wife, Dorothy, at Diana and Jim Zirul's party this past New Year's Eve. We talked a short time about your home dry wall needs, SBS being closed on Sundays, and our new Home Depot being open.

I hear you have a keen interest in the long term health and well being of the Kenai River and are sponsoring SB-190 to legislatively add State-owned public lands to the Kenai River Special Management Area Plan (KRSMA). I strongly support your leadership in doing this. Even though I'm a member of the KRSMA Advisory Committee, I'm writing to you as a very interested private property owner and stakeholder in the economy of the Kenai Peninsula. I believe aggressive management of the Kenai River and Kasilof River watersheds is vital to the long term prosperity of our community. However, I would like to try to convince you to strengthen SB-190 by adding the state-owned public lands and waters in the upper Kenai River watershed, as listed in CS HB-165. Those lands and waters provide a significant portion of habitat and spawning areas for Kenai River sockeyes. I worry that leaving these upper River State-owned lands and waters in limbo risks sale and development or uncontrolled impacts on these habitats, to the detriment of the watershed and our economy. As you may know, CS HB-165 passed the House in 2001 essentially on a unanimous vote. For reasons unknown to me, CS HB-165 "died" in committee in the Senate in 2001 because of objections raised by your predecessor, John Torgerson. Since he is apparently no longer a factor in this matter, it seems likely that SB-190, if supplemented by the additional public land tracts listed in CS HB-165, with one possible exception, would be a non-controversial bill in both the Senate and the House. That possible exception could be the tract of land along the SW shore of Kenai Lake, which contains the Chugach Electric Association (CEA) aqueduct from Cooper Lake to CEA's power generating station. Since it seems that CEA could be concerned that designating this land as KRSMA might impact their re-licensing process, it

might be prudent to set that tract aside for now and concentrate on the rest of the upper watershed lands and waters that are not controversial.

For your information, I have sent a letter to US Senator Ted Stevens requesting he personally endorse SB-190, and a similar letter, with the recommendations and rationale above, to Senator Gary Stevens and suggested he join you in sponsoring SB-190. I have also sent similar letters to Representatives Mike Chenault, Kelly Wolf and Paul Seaton requesting they support your (hopefully supplemented) bill in the House. If all the pertinent State-owned lands are legislatively added to the KRSMA through SB-190, there is no doubt in my mind it would be a key milestone in contributing to the health and well being of the Kenai River, and provide long lasting economic benefits to the Peninsula.

Thank you for any response or action you may take on these requests. I have included a separate, short biographical sketch to help you understand my interest and involvement in the requests in this letter.

Sincerely,



Richard Hahn

P.O. Box 2754

Soldotna, Alaska, 99669

907-262-8575

email rdhahn@ptialaska.net

# STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES  
OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

- 400 WILLOUGHBY AVENUE  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400  
FAX: (907) 465-3886
- 550 WEST 7<sup>TH</sup> AVENUE, SUITE 1400  
ANCHORAGE, ALASKA 99501-3650  
PHONE: (907) 269-8431  
FAX: (907) 269-8918

March 4, 2004

Mona Painter, President  
Cooper Landing Community Club  
PO Box 508  
Cooper Landing, AK 99572

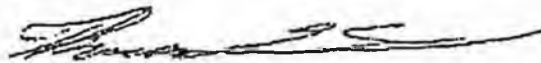
Dear Mrs. Painter:

Thank you for your February 3, 2004 letter concerning your support for adding lands along the shoreline of Kenai Lake to the Kenai River Special Management Area (KRSMA), and your recommendation that these lands be added to SB 190. I understand that there has long been interest in Cooper Landing to see additional lands added to the KRSMA.

This session, Senator Tom Wagoner introduced SB 190 to only add lands in the lower Kenai River watershed to the KRSMA. I am not aware that the upper Kenai River watershed state lands are vulnerable to threats that might warrant their addition to KRSMA, plus the Division of Parks and Outdoor Recreation's operating budget is so limited that it might be difficult for our agency to take on the additional responsibility for new lands added to the park system. We feel it is up to the local community and your legislative delegation to recommend any additional lands to KRSMA.

I recommend that you contact Senator Wagoner to discuss amending SB 190, consistent with the wishes of the local community. Thank you again for taking the time to share your recommendations for the upper Kenai River watershed.

Sincerely,



Thomas E. Irwin  
Commissioner

cc: Senator Tom Wagoner  
Gary A. Morrison, Director, Parks and Outdoor Recreation

Track # 04-1021

*"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."*

## Cooper Landing Community Club

Since 1949---community center park, cemetery, rifle range recreation property, museum property,  
Helen Rhode Memorial Park permit, ambulance and fire department property lease...

PO Box 508 Cooper Landing, AK 99572

February 3, 2004



At community center park, Bean Creek Road

At Snail-a-thon Beach (KAP Unit 390)

Tom Irwin, Commissioner  
Department of Natural Resources  
400 Willoughby Avenue, Suite 500  
Juneau, AK 99801

Dear Commissioner Irwin:

After receiving several emails and two phone calls regarding Senate Bill 190, I brought this matter before the Cooper Landing Community Club members at the Jan. 29, 2004 meeting. I read the letter the CLCC wrote to Commissioner Shively Jan. 30, 2000 (copy enclosed) during discussion. The CLCC passed a motion to once again confirm our belief in the Cooper Landing Advisory Planning Commission's comments regarding the Kenai Area Plan included in the 1996 Cooper Landing Land Use Classification Plan For Borough-Owned and Borough Selected Lands. I will enclose a copy of that section of the plan. The focus of the attention was on section c on page 31 of 35 recommending that shoreline lands along Kenai Lake be included in the Alaska State Park System... These lands were not included in SB 190.

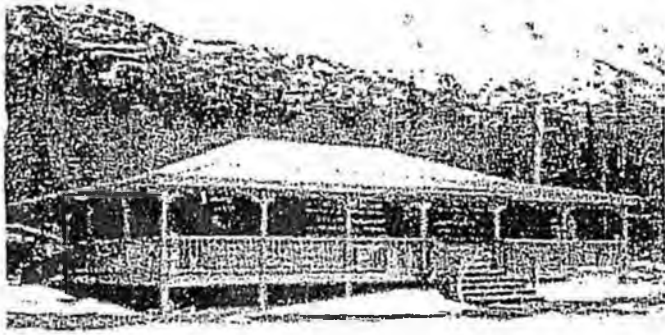
Sincerely,

Mona Painter, President

(907) 595-1248  
[painter@arctic.net](mailto:painter@arctic.net)

copies:

State Parks Kenai Area Supt. Degernes,  
Kenai Pen. Borough Mayor Bagley,  
Senator Tom Wagoner  
Senator Gary Stevens  
Representative Dan Ogg



## COOPER LANDING COMMUNITY CLUB, INC.

Since 1949----Library, Park, Cemetery, Ambulance Squad, Dall Homemakers, Gun Club  
P.O. Box 508 Cooper Landing, AK 99572

John Shively, Commissioner  
Department of Natural Resources  
400 Willoughby Avenue, 5th Floor  
390

January 30, 2000

Juneau, AK 99801

re: Kenai Area Plan, particularly Unit

Dear Commissioner Shively:

We reaffirm the Cooper Landing Advisory Planning Commission's comments regarding the Kenai Area Plan in the Cooper Landing area which were written to Bruce Talbot and Nancy Pease of the Department of Natural Resources on May 11, 1995. These comments are included in our Cooper Landing Land Use Classification Plan For Borough-Owned and Borough Selected Lands adopted by the Kenai Peninsula Borough via Ordinance 96-37: An Ordinance Incorporating The 1996 Cooper Landing Land Use Plan Update as an Element of the Kenai Peninsula Borough Comprehensive Plan.

Unit 390, which includes lands between Snug Harbor Road and Kenai Lake in which our Snail-a-thon beach/community picnic site is located, is of particular concern to us since Kenai Peninsula Borough Mayor Dale Bagley has requested this state land be available for Kenai Peninsula Borough selection. We want this area kept for public access recreation, scenic value, and habitat protection. We do not want this land developed. The annual Snug Harbor Snail-a-thon is the biggest community fund raiser for support of the community park and the Cooper Landing Elementary School bringing in over \$45,000. through the years. Approximately 100 people gather annually on that beach for this one event.

Cooper Landing residents enjoyed the use of the Snail-a-thon beach/community picnic site even before the Snug Harbor Snail-a-thon began in 1980. This is one place on the Cooper Landing end of Kenai Lake that people can access without going through private property, a USFS campground, or through the power transmission line right-of-way. Residents who cannot walk from the Snug Harbor Road can be driven to the beach so that even physically challenged folks can enjoy this beautiful site.

Our affirmation comes to you through a motion which passed unanimously at our regularly scheduled meeting January 27, 2000. The meeting and agenda were publicized in advance.

Sincerely,

CC: DNR Talbot, DNR Loeffler, DNR Degernes,  
Senator Torgerson Representative Davis  
K. P. Borough Mayor Bagley  
CLAPC Wilson

Mona Painter, President  
(907) 595-1248  
painter@arctic.net

## V. STATE LAND

### 1. Recommendations to the State re: State Lands

Although this plan (1996 Cooper Landing Land Use Plan Update) applies to land which has all ready been selected by the Borough, significant consideration was given to the Kenai Area Plan as set forth by the State of Alaska Department of Natural Resources because of the likelihood of selection of these lands by the Borough in the future.

On May 11, 1995, the CLAPC forwarded a letter to DNR outlining the Commission's concerns and recommendations for the lands in the Cooper Landing area addressed in the Kenai Area Plan. Appendix #3 is a copy of this letter.

Map "D", in the back of this document, shows some of the Kenai Area Plan Recommendations.

In cases where the State is still considering the Borough's selections, Unit Numbers have been assigned to these areas and are being discussed as part of the Kenai Area Plan. A Final Decision issued by the State of Alaska gives the Borough management authority on those lands and issuance of a Patent may or may not include certain conditions on the transfer of ownership and/or changes in the amount of acreage conveyed.

The following is a brief summary of the recommendations forwarded to the State DNR:

- a. The CLAPC considers Units numbered 388, 389, 390, 391, 393A, 393B, 394A, 394B, 395, and 396 as falling within the planning area, and/or having a significant affect on the community of Cooper Landing.
- b. That the Kenai Area Plan Planning Team consider certain portions of the 1992 Community Recommendations On A Land Use Plan for Borough Lands; specifically, the portion beginning "Land Status and Existing Land Use" and the Survey Results (of) Cooper Landing Community Goals. The directions for community growth and expansion expressed in this document reflect our goals for both state and borough lands. The plan should be useful to State Land Management Planners in formulating State Land Use Decisions in the Cooper Landing area.
- c. The CLAPC recommends that the state shoreline lands along Kenai Lake and its tributary streams be included in the Alaska State Park System for habitat protection, scenic value, and public access as specified in Kenai River Special Management Area, 1986. These

Cooper Lake Roads are appropriate per Section 1A of Cooper Landing community Goals Survey, August 1991.

GENERAL COMMENT: While the CLAPC supports traditional firewood and house-log use of Units 388 and 389, we question the utility of sales like the current hemlock rich, 240 acre Cooper Lake sale. We oppose extensive permanent road construction in this area and support the State's designation of winter removal on proposed sales. The community would rather limit permanent roads to planned development projects.

The Commission is concerned with the broad commercial leasing guidelines for Unit 388 and would like to work with the state on more refined designations with greater protection of habitat and recreation values around Cooper Lake. The community recommendations for borough-selected lands were crafted during the winter of 1995-1996. It is the intention of the Commission members to continue working with the state on Cooper Lake designations and guidelines to balance community expansion needs with retention of current recreation values. Future commercial and residential land disposals in Unit 388 and 389 must be coordinated with development plans on borough-selected lands and must be subject to community comment and approval.

#### VI. POTENTIAL NEW SELECTIONS UNDER AS 29.65

##### 1. Recommendations to the Borough re: State and Borough Lands.

Although the above recommendations were addressed to the State, the following sections are included herewith as recommendations for selection/classification process (and other suggestions) to be considered by the Kenai Peninsula Borough.

- a. The selection of the 1,138-acre Unit 395 for community expansion as a residential subdivision with consideration for the integrity of the Resurrection Pass Trail System and surrounding fish and wildlife habitat. Also, all residential recommendations are contingent upon the ability of the developer to provide adequate road access, adequate sewage disposal facilities, and a potable water supply.

The commission recommends a 200 foot preservation greenbelt along either side of the Juneau Bypass state right-of-way, with limited access, and no roadside commercial development.

- b. The selection of the 523-acre Unit 394B for community expansion as commercial and residential subdivision. The northeast corner of this parcel where the Sterling Highway runs directly along the Kenai River to the south of Cooper Creek Campground is an important bald eagle winter feeding area and should be protected either by inclusion in State

- b. There is to be NO access to or from the new alignment other than the departure from the existing road at either end of the bypass. The NO ACCESS issue is not a matter taken lightly by the community

Diverting traffic away from the business district could be damaging to the community's economic base. Most businesses rely heavily on tourism and it is difficult enough to operate on a seasonal basis. It is important to the residents that Cooper Landing remain a viable, thriving community.

## VII. IMPLEMENTATION

While this 1996 Update to the 1992 CLLUP provides recommendations to the KPB on the classification of its land, it is not a revision of the 1992 CLLUP. The CLAPC is encouraged to update the 1992 CLLUP to address the many significant issues affecting the Cooper Landing community as mentioned in the introduction.

KPB 17.10.080(I) states that "classification or reclassification shall be compatible with any land use plan adopted under the borough comprehensive plan or another plan approved the assembly. If a proposed classification or reclassification is not compatible with an approved land use plan, a plan revision shall be necessary before the classification or reclassification is adopted." Classifications are general land use recommendations. Within each classification definition there is significant latitude to implement the classification. It is not until KPB land is disposed or developed for a public purpose that classification is ultimately implemented. Prior to development, large tracts of KPB land need to be, at a minimum, surveyed, soil tested, and subdivided. This could cause the modification of classification boundaries. Specific decisions on items such as lot size and alignment of roads can only be decided during the subdivision planning and development stage.

Certain preexisting land uses have been determined through filing of subdivision plats and reservations in conveyance instruments. Specifically, land that has been subdivided has established or dedicated access, easements, and, in some cases, development setback and non-development buffer areas. Where these decisions have been made through the platting process, classification recommendations do not supersede the subdivision plat. Additionally, land use plans and KPB classifications are subject to any restrictions and reservations imposed on the property by patent or conveyance documents from the State of Alaska, the United States or the Kenai Peninsula Borough.

The Southern Intertie Route Selection Study Phase 1, dated May 3, 1996 shows Cooper Landing as being affected by one of the alternate corridors. The alternate alignment generally parallels the existing Quartz Creek transmission line. Should this alignment be selected the right-of-way for the intertie would be an additional 150 feet.

**Subject:** SB190 Resources Committee Testimony

**Date:** Mon, 16 Feb 2004 14:39:40 -0900

**From:** <akscitec@alaska.net>

**To:** Senator\_Thomas\_Wagoner@legis.state.ak.us

Dear Senator Wagoner,

This is testimony of the Friends of Cooper Landing (FOCL), for the Senate Resources Committee hearing on SB 190, Monday, February 16, 2004.

We are a broad-based community organization, which understands from long experience how important a healthy Kenai River and watershed are to the life and economy of people living on the Kenai Peninsula. For that reason FOCL supports adding critical parcels of land to the Kenai River Special Management Area.

Unfortunately we cannot support SB 190 in its current form, because it will negatively impact river management. State and Federal agencies are responsible for maintaining the health of the Kenai River System. Removing State and Federal agency voting memberships will simply politicize the KRSMA Board, and potentially allow special interests to dominate. That would be very unwise, as well as be inappropriate for a management board. We strongly oppose this section of SB 190, which is unacceptable as written.

Thank you,

Bob Baldwin, President  
Friends of Cooper Landing  
akscitec@alaska.net

Thanks for SB 190

**Subject:** Thanks for SB 190

**Date:** Thu, 22 Jan 2004 17:27:21 -0800

**From:** "Wellman, Ted" <tedwellman@DWT.com>

**To:** "Senator\_Thomas\_Wagoner@legis.state.ak.us" <Senator\_Thomas\_Wagoner@legis.state.ak.us>

Thanks for introducing SB 190. I would like to encourage you to consider adding other lands in the upper part of the river to KRSMA that are equally or more critical to the health of the river in future legislation. The original bill Ken introduced contained the main tributaries of the river such as Trail River and areas around Trail Lake, Funny River, Quartz Creek, a few parcels around Kenai Lake, Cooper Landing and other other similar areas. If memory serves me correctly, none of the land had to be purchased. If there is controversy, affected parcels could be left out. What I would like to see is the salmon streams be protected before development makes a mess of the rearing habitat as has been done on the Lower Kenai. I would happy to show you on the map these other lands when convenient for you. Thanks again for your help

Ted Wellman<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Davis Wright Tremaine, LLP

tedwellman@dwt.com

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*Called  
507 3:30*

**Subject: KRSMA board SB190**

**Date:** Sun, 21 Mar 2004 15:03:30 -0900

**From:** "Mona Painter" <painter@arctic.net>

**To:** <Mary\_SIROKY@legis.state.ak.us>

**CC:** <cameron\_yourkowski@legis.state.ak.us>

Dear Chairman Carl Morgan:

My name is Jim H. Richardson from Cooper Landing, AK. After retirement I served for over five years as a public member from Cooper Landing for the Kenai River Special Management Area Board. This board has been the most effective body for receiving public input and preparing consolidated recommendations to D. N. R. for action that I encountered in my entire 33 year career of natural resource management with B.L.M. Many of the questions or issues brought before the board could be answered or resolved on the spot because all the key agency people were there. The recommendations in the Kenai River Plan were the result of public meetings in Soldotna, Cooper Landing, Anchorage, and elsewhere to gather public comments and formulate them into specific proposals.

I am deeply concerned by the portion of S. B. 190 that would take away the voting rights of agency and other members. This would discourage active agency participation and result in for less useful recommendations.

I recommend that this portion of the bill be deleted and the KRSMA Board be left to operate as t has so effectively in the past.

Jim H. Richardson

P. O. Box 757

Cooper Landing, AK 99572

Email:mrich@alaska.net

# STATE OF ALASKA

## Cooper Landing Fish & Game Advisory Committee

Frank H Murkowski, Governor

Bill Stockwell, Chair  
PO Box 721  
Cooper Landing, AK 99572-0721  
Phone: 595-1540

March 20, 2004

Honorable Carl Morgan  
Chair, House Community and Regional Affairs Committee  
State Capitol Building,  
Juneau, AK 99801-1182

SENT BY FAX 2 PAGES

SUBJECT: Senate Bill 190

Dear Chairman Morgan and Committee Members

At our meeting of March 18, 2004, the members of the Cooper Landing Advisory Committee voted unanimously to OPPOSE Section 4 of Senate Bill 190, changing the KRSMA Advisory Board Membership, and asked me to relay this opposition to our District Representative Paul Seaton which I did. His office informed me that your House Committee would be holding a hearing on March 23 and suggested that I contact you direct with our concerns.

The Cooper Landing AC SUPPORTS adding Lower River Lands to KRSMA, Section 2 of SB 190, and hope more additions can continue to be added in the future. However, we strongly feel that the proposed change to the voting membership of the KRSMA Advisory Board, Section 4 of SB 190, is certainly not in the best interest of Community of Cooper Landing and is bad policy for all Alaskans. We ask you to OPPOSE this section and AMEND TO REMOVE Section 4 before enactment of SB 190.

Cooper Landing is an unincorporated community whose residents depend on the health of the Kenai River Watershed and its adjacent land for their economic well-being and quality of life. While our voting population is small, much of the river's resources and viable habitat are in our area. The Community has depended for many years on good working relationships with ADF&G, DNR Lands and Parks, the Kenai National Wildlife Refuge, and the Forest Service for the management of our area's most vital resources. As proposed in Section 4 of SB 190, these land managers and resource experts would no longer vote on Kenai River issues vital to Cooper Landing while leaving the Municipalities of Soldotna, Kenai and the Borough as voting members. This change would shift the power to manage the Kenai River to the population base at the mouth of the river and be to the detriment of the residents of the Upper Kenai River and all Alaskans and other users in general.

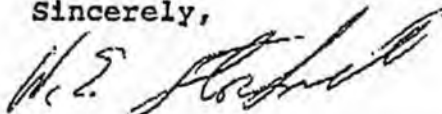
PAGE 2 COOPER LANDING ADVISORY COMMITTEE MARCH 20, 2004

We believe that the changes proposed in Section 4 of SB 190 violate the original intent of the 1984 KRSMA Act. In Section 1, Findings, of the 1984 Act it states: "A multitude of state and federal agencies with jurisdiction over various aspects of the river and adjacent public lands creates a labyrinth of regulation without effectively preventing the river's deterioration. The river's fishery and wildlife are its most important resources. The highest priority uses of the river and its adjacent land derive from its fishery and wildlife which must be protected and preserved to ensure their renewability and continued usefulness. To solve the river's problems a need exists for a comprehensive management plan for the river and its adjacent land and for coordinated management."

Coordinated management of the Kenai River Watershed requires that all land and water managers, resource managers, users and the public have equal seats at the table and that all have an equal voice and vote. To do otherwise violates the original findings of the act. Depriving all governmental entities except municipalities from vote is both unwise and poor public policy. While the health the Kenai River is of importance to adjacent municipalities, their expertise is not in management of fish and wildlife habitat and resources but in the development of land for growth and tax purposes. To leave the municipalities adjacent to the Kenai River as the only governmental entities with vote certainly seems to violate the finding that "The river's fishery and wildlife are its most important resources."

Thank you for allowing us this opportunity to provide testimony on Senate Bill 190 and thank you for examining our concerns and comments. We ask that Section 4 of SB 190 be removed in fairness to all Alaskans. If you need more information or have any questions, please contact Bill Stockwell by phone or fax at 595-1540.

Sincerely,



Bill Stockwell, Chair

cc: Representative Paul Seaton  
ADF&G Board Support

RE: SB 190, Kenai River Special Management Area  
Department of Natural Resources  
February 27, 2004  
Senate Resources Committee

- The subsurface estate is the dominant estate.
- EVOS Conservation Easements only apply to the portion of the estate acquired with EVOS funds.
- The use of lands acquired with EVOS funds is controlled by the terms of the conservation easements on them. The KRSMA designation does not affect the conservation easements.
- Conservation easements associated with EVOS lands apply to the specific land interest acquired. If the subsurface estate was not part of the purchase, the conservation easement cannot limit access to the mineral estate any more than the surface owner of any parcel of land can limit access to the minerals underlying his estate.
- Typically we did not acquire the subsurface estate with EVOS funds. If we did acquire the subsurface estate on any of the EVOS funded parcels, utilization of the minerals on that specific parcel would be limited by the terms of the Conservation Easement.
- Typically the oil and gas rights on many of the EVOS acquired parcels were previously conveyed to the State of Alaska via patent and as such would not be subject to the terms of the Conservation Easement.
- Generally, the Conservation Easement on EVOS acquired parcels is consistent with Parks Management intent and the KRSMA designation.
- The conservation easement has no effect on adjacent parcels.



KENAI RIVER SPECIAL MANAGEMENT AREA  
ADVISORY BOARD

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KENAI RIVER SPECIAL MANAGEMENT AREA  
ADVISORY BOARD

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## BYLAWS

### KENAI RIVER SPECIAL MANAGEMENT AREA ADVISORY BOARD

The Kenai River Special Management Area Advisory Board was originally created in 1985 under the authority of A.S. 4 .510. The original Board was charged with developing a comprehensive management plan for the Kenai River. The original Comprehensive Plan was completed and the Board disbanded in 1986. In 1988, a new Board was appointed to help advise the Department of Natural Resources on implementation of the Plan. In July of 1995, Governor Knowles reappointed the Board and redirected the Board to address a series of specific new goals including updating the Plan. These by-laws reflect the changed scope of work for the Board.

#### I. PURPOSES

A. The purposes of the Kenai River Special Management Area Citizens Advisory Board (hereinafter referred to as "the Board") are:

1. To advise the Governor of the State of Alaska and the Commissioner of the Department of Natural Resources on issues relating to the Kenai River watershed other than matters related to fisheries allocation;
2. To update the Kenai River Management Plan and monitor implementation of the new Plan;
3. To propose changes to regulatory processes to affect better interagency coordination;
4. To propose programs to educate the public about the importance of habitat protection along the Kenai River;
5. To review and encourage the adoption of the State, federal and local regulations which protect the habitat along the Kenai River while considering the legitimate rights of both public and private property owners;
6. To represent the broad public interest including those of property owners, the Kenai Peninsula Borough, municipalities, agencies of the State and Federal governments, and other interested groups, on issues related to the Kenai River;
7. To hold public meetings, consult with and solicit recommendations from the public;
8. To advise the Governor and the Commissioner of the Department of Natural Resources of regulations necessary to achieve implementation of the plan;
9. To address management issues, review and make recommendations on budgeting priorities, permits and other field operations or policy matters, and advise the Commissioner of the Department of Natural Resources of such recommendations;
10. To encourage the development of standard designs for boardwalks, docks, bank stabilization and other improvements that restore and protect habitat which may be permitted on an expedited basis; and
11. To review and make recommendations regarding major new permit applications not covered by standard designs for docks, boardwalks, bank stabilization and other within the Kenai River Special Management Area.

B. Other purposes of this advisory board are:

1. To provide a forum for the collection and expression of public opinions and recommendations on matters relating to the Kenai River Special Management Area and its watershed;
2. To promote the protection of resources of the Kenai River Special Management Area, including its aesthetic values, vegetation, wildlife, soils, fishery, water, educational, historic, and outdoor recreation opportunities ;

3. To inquire into matters of public interest relating to the Kenai River Special Management Area to bring matters of interest to the attention of the public; to appear and testify at public hearings as representatives of the Board;
4. To make recommendations, when the Board deems appropriate, to local, state, and federal agencies and to legislative bodies relating to issues affecting the Kenai River other than matters of fish allocation;
5. To promote interpretation and public awareness of the natural and human history of the Kenai River Special Management Area;
6. To increase public awareness and understanding of human impacts on the Kenai River Special Management Area and its resources;
7. To promote cooperation between the Kenai Peninsula Borough, municipalities, the Division of Parks and Outdoor Recreation, and other State and Federal organizations;
8. To propose and advise on cooperative agreements and land acquisitions or exchanges; and
9. To enlist public and legislative support for the Kenai River Special Management Area's policies and programs.

## II. PUBLIC ATTENDANCE

Meetings of the Board are open to the public. The Board shall prescribe rules of procedure and decorum while specifying limits, and the manner of, public participation in the meetings, as further delineated under Section VI. F.

## III. MEMBERSHIP

There shall be seventeen members on the Board consisting of public and agency members. Public members shall be selected to ensure representation of the broad spectrum of public interests involved with or affected by the Kenai River and to prevent domination of the Board by a single viewpoint unrepresentative of the river's broad constituency. It is the intention of these Bylaws that the Board's membership reflect representation of such adjacent geographical areas as the Cooper Landing area, the Sterling area, the cities of Soldotna and Kenai, as well as the river users in south central Alaska in general. The agency members shall be from: the Kenai Peninsula Borough, the City of Soldotna, the City of Kenai, the US Forest Service, the US Fish and Wildlife Service, the Alaska Department of Fish and Game, the Alaska Department of Natural Resources, and the Alaska Department of Environmental Conservation. The membership shall also reflect, by demonstrated interests, expertise, and advocacy for the river, various activities and skills such as fishing and hunting, motorized and non-motorized boat use, back-country hiking, trail-related use by hikers, runners, cyclists, and horseback riders, Nordic skiing, canoeing and kayaking, nature observation, natural sciences, outdoor education, appropriate commercial uses and concessions, and real estate and land use planning expertise.

Any Board member may, of course, represent viewpoints of more than one such area, activity, or skill. It is recognized that the Board's membership cannot accurately reflect all opinions of the interested populace on every issue, but there shall be no deliberate concentration of specific viewpoints on the Board which would be contrary to the balanced representation specified in these Bylaws. Each Board member carries the responsibility to represent the broad public interest and no member shall consider himself or herself merely an advocate of a specific group.

#### IV. NOMINATIONS AND APPOINTMENTS

A. The Commissioner of the Department of Natural Resources shall appoint the nine citizen members of the Board. Beginning December, 1997, four members shall be appointed for two-year terms and five members shall be appointed for three-year terms. Thereafter, the term of appointment shall be two years, with all terms scheduled to expire on October 1 of the appropriate year.

B. Each agency may select its representative for its position. One alternate may be appointed by each agency. The Commissioner of the Department of Natural Resources retains the right to approve or reject the agency's nominations for representative and alternate.

C. At least three months prior to expiration of the term of office of an incumbent member of the Board, the Board, through its nominating committee, shall solicit applicants from the public, from user groups, from area communities, and from the Commissioner of the Department of Natural Resources to fill the anticipated vacancy. Notice of the vacancy and the application procedures shall be published in local newspapers. The Board shall discuss the applications and shall, no later than one month prior to expiration of the term of office, nominate to the Commissioner no fewer than three individuals for each vacancy. The Commissioner shall, with thirty (30) days, appoint to each vacancy one member from among those nominated, the appointment to be effective upon expiration of the term of office of the incumbent. A Board member may be reappointed by the solicitation and nomination process specified in this paragraph.

D. If a Board vacancy occurs before the expiration of a member's term, the Board shall make three nominations from the current application list at any regular or special meeting. Any interested member of the public may be placed on an application list by submitting formal application to the Board. Such nominations shall be immediately forwarded to the Commissioner for appointment, which shall be made within fifteen (15) days following submission of the nominees to the Commissioner. An appointee to a vacant Board position shall serve the unexpired term of the person whose vacancy has been filled.

E. Any member desiring to resign from the Board shall submit his or her resignation in writing to the President.

#### V. REMOVAL OF BOARD MEMBERS

A. Removal Upon Unexcused Absence. A vacancy in the seat of any member may be declared to exist by an eleven (11) member vote of the entire Board if that member has, without previously being excused, failed to attend three regular meeting of the Board within any twelve month period, or two consecutive meetings .

B. Removal for Cause. A Board member may be recommended for removal for cause by an eleven (11) member vote of the entire Board. Upon approval of that action by the Commissioner, the member shall be removed and the seat declared vacant. Cause for removal of a Board member shall be limited to the following:

- 1) flagrant repeated violations of the rules and procedures developed by the Board for conduct of Board and Board committee meetings and

- 2) knowing violations of the Board Bylaws on conflict of interests.

C. Notice of Proposed Removal Action. Any motion that the Board remove any member under A or B above must be adopted by the Board as an agenda item for a regular or special meeting occurring at least one month after the motion is proposed to take such action. The member whose position is proposed to be declared vacant shall receive notice of the

proposed action at least twenty (20) days prior to the action, and shall be permitted to respond, in writing and orally, before such action is taken.

## VI. MEETINGS

A. Meetings shall be held on the third Thursday of the month. The Board may establish other meeting schedules as it deems appropriate by majority vote. Rules and procedures governing all such meetings of the Board shall be according to the most recent edition of Robert's Rules of Order.

B. Special meetings may be called by the President (or, in his/her absence, the Vice President), or by any five board members, or by the Commissioner of the Department of Natural Resources. Special meetings may include polls by telephone or facsimile communications and voting for emergency situations.

C. The Commissioner of the Department of Natural Resources shall make a reasonable attempt to deliver notice of all special meetings to each member five (5) days prior to the meeting date. All notices of special meetings shall state the purposes thereof. All special meetings will be scheduled so as to ensure the greatest possible attendance by all members of the Board.

D. A quorum of the transaction of business at any regular or special meeting of the members shall consist of a majority of the members of the Board (9) with a minimum of not less than five members representing the public. Any number of members present at a duly called meeting constituting less than a quorum shall postpone the meeting to a time and place where a quorum is expected to be present. A majority of a quorum is required to approve items of business unless as otherwise required.

E. No person shall represent anything as the position of the Board, except when the position has been approved by vote of a majority of the quorum.

F. Each agenda for all Board meetings shall include public comment scheduled at a time during the agenda to ensure the greatest public participation. Testimony shall be limited to three (3) minutes.

G. The Board agenda shall be established by the President of the Board or in his or her absence, by the Vice President. Any Board member may, by request to the President, add items to the agenda. The Board agenda may be modified or amended by majority vote at the initiation of the meeting.

H. The Board will have an annual meeting in September of each year. In addition to the normal agenda, the following agenda items will be included: 1) elections of President and Vice-President; 2) review of the continuing need for standing and ad hoc committees; 3) appointment to committees; and 4) annual reports from the committees.

## VII. OFFICERS AND COMMITTEES

A. The officers of the Board shall be a President and one Vice President, each of whom shall be elected by the Board. Such other officers and assistant officers as are deemed necessary may be elected by the Board. Board officers shall serve without salaries.

B. The officers of the Board shall be elected annually by the Board. Each officer shall hold office until his or her successor has been duly elected, except that a vacancy shall be filled in the manner hereinafter provided.

C. Any officer elected by the Board may be removed from that office by an eleven (11) member vote of the full Board membership whenever, in its judgment, the best interest of the Park and the public would be served thereby. Any such removal shall not affect that person's membership on this Board.

D. A vacancy in any officer position because of death, resignation, removal, disqualification, or otherwise, may be filled by majority vote at any regular or special board meeting.

E. The President may appoint such standing, and ad hoc committees as necessary, in order to promote the efficient conduct of Board business and maximum active participation by the public. Each committee may have non-Board members as nonvoting participants, but shall have at least one member of the Board. Ad hoc committees are established to accommodate specific tasks over a prescribed period of time.

F. The President shall, in general, supervise and coordinate all the affairs of the Board and shall, when present, preside at all meetings of the Board.

## VIII. CONFLICT OF INTEREST

A Board member shall immediately disclose to the Board any significant conflict of interest involving any particular matter presented to the Board for action. A significant conflict of interest exists if the Board is asked to consider and recommend agency action, involving any real or personal property in which the Board member, or a member of his or her immediate family, holds a direct financial interest. If the Board determines a conflict of interest exists, the affected Board member shall not participate in discussion or vote on the issue. This conflict of interest policy shall not be construed to preclude Board members from participating in discussions or voting on issues in which the Board member has a general financial interest by as a result of being a member of a group or class of users affected by the proposed action.

Whenever any notice is required to be given to any member of the Board under the provisions of these Bylaws or under the provisions of the statutes of the State of Alaska, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance at a meeting by a member constitutes notice of the meeting.

## IX. AMENDMENTS

The Board may adopt, alter, amend, or repeal the Bylaws with an eleven (11) member vote of the entire board, with the concurrence of the Commissioner of the Department of Natural Resources.

## XI. SUPPORT

The State Department of Natural Resources shall furnish the following staff and services to the Board:

1. A designee to act as ex-officio as Secretary to the Board;
2. Upon request, furnish a meeting room;
3. Provide mail-out services for the notices and agendas of meetings, and provide public notice of the meetings by issuing press releases to all Kenai Peninsula radio stations and newspapers, as well as one Anchorage paper;
4. Prepare, circulate, and keep minutes of the meetings;
5. Furnish necessary maps, plans, and data for agenda items, as otherwise agreed from time to time;
6. In consultation with the President, the staff shall provide an agenda for each meeting.

Approved: *s/John Shively/* December, 1997

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSSB 190(STA)  
(S) Publish Date: 1/21/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
Title Kenai River Special Management Area RDU Parks & Recreation Mgt.  
Component Parks Management  
Sponsor Sen. Wagoner  
Requester (S) STA Component No. 452

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personnel Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill adds a number of parcels of land in the lower Kenai River area to the Kenai River Special Management Area (KRSMA). These lands are currently being managed by the Division of Parks and Outdoor Recreation. The proposed additions include a portion of those envisioned in both the 1997 Revised Kenai River Comprehensive Management Plan, adopted by DNR in 1997, and the Kenai Area Plan adopted by DNR in 2000. The bill also excludes state or federal employees from serving as public members of the Advisory Board.

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

Prepared by: Pete Panarese Phone 269-8700  
Division: Parks Date/Time 1/20/04  
Approved by: Thomas Irwin, Commissioner Date 1/20/04  
Agency: Natural Resources

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSSB 190(STA)  
 (S) Publish Date: 1/21/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title Kenai River Special Management Area RDU Sport Fisheries  
 Component Sport Fisheries Habitat  
 Sponsor Senator Wagoner  
 Requester Senate State Affairs Component No. 2698

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 Passage of this legislation would have no fiscal impact.

Prepared by: Kelly Hepler, Director Phone 465-4180  
 Division Sport Fish Date/Time 1/16/04 4:18 PM  
 Approved by: Commissioner Kevin Duffy Date 1/16/2004  
 Agency Alaska Department of Fish & Game

# ALASKA STATE LEGISLATURE



Official Business

## SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Resources Committee
- Vice-Chair, Senate Community and Regional Affairs Committee
- Member, Legislative Council

Session: January - May

State Capitol, #427

Juneau, AK 99801

Phone: 907-465-2828 Fax: 907-465-4779

Interim: May - December

145 Main Street Loop, Suite 226

Kenai, AK 99611

Phone: 907-283-7996 Fax 907-283-3075

## Sectional Analysis

### SB 190

**"An Act adding certain state-owned land and water to the Kenai River Special Management Area; relating to the mineral estate of the state-owned land and water in the Kenai River Special Management Area; amending the qualifications for members of the Kenai River Special Management Area advisory board; and providing for an effective date."**

**Section 1** States that the purpose of SB 190 is to add certain state-owned land and water to the Kenai River Special Management Area

**Section 2** Amends AS 41.21.502(a)(4)(L) by adding in the parcels of land that will be in the Kenai River Special Management Area. These are primarily EVOS lands, with a couple parcels that were left out of the original bill.

**Section 3** Amends AS 41.21.502(c) by rewording the statute so it reads more clearly.

**Section 4** Amends AS 41.21.510(b), which is the set up of the KRSMA advisory board. A person working for the federal or state government will no longer be a voting member of the board, but an ex officio.

**Section 5** Immediate effective date.

# ALASKA STATE LEGISLATURE



Official Business

## SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Resources Committee
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## Sponsor Statement

### SB 190

**"An Act adding certain state-owned land and water to the Kenai River Special Management Area; relating to the mineral estate of the state-owned land and water in the Kenai River Special Management Area advisory board; and providing for an effective date."**

To provide the protection and management of the Kenai River system called for in the comprehensive management plan, certain state-owned land must be Legislatively added to the boundary of the Kenai River Special Management Area (KRSMA). KRSMA is managed as a unit of the Alaska State Parks system in the Department of Natural Resource under AS 41.21.500.

The lands that Senate Bill 190 will add to the Kenai River Special Management Area are primarily the 536 acres acquired as habitat and recreation lands under funds from the Exxon Valdez Oil Spill settlement. There are also a few isolated tracts of state land that had been overlooked during the initial 1984 KRSMA legislation.

This bill also changes the structure of the KRSMA advisory board. Originally representatives from state and federal agencies could be appointed to the board. SB 190 changes AS 41.21.510(b) so members of user groups, resident property owners and municipalities make up the voting members of the advisory board, and those members from state or federal agencies will be ex officio.

Existing park staff assigned to the Kenai River Special Management Area is adequate to cover additional management responsibilities and there are no new facilities proposed for these additional lands.

SPONSOR STATEMENT

# ALASKA STATE HOUSE OF REPRESENTATIVES

Representative Carl Morgan, Chair  
Representative Kelly Wolf, Vice Chair  
Representative Tom Anderson  
Representative Ralph Samuels  
Representative Pete Kott  
Representative Sharon Cissna  
Representative Albert Kookesh



Alaska State Capital, Room 408  
Juneau, AK 99801-1182  
Telephone: (907) 465-3882  
Fax: (907) 465-4527  
representative\_carl\_morgan@legis.state.ak.us

## HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS Representative Carl Morgan, Chair

**AGENDA**  
State Capital 124  
May 3, 2004  
8:00am

- Call to Order
- SB 190 Kenai River Special Management Area
- SB 382 Eminent Domain/Replat of Boundary Changes
- SB 387 Commercial Fishing Loans for Quota Shares
- Next meeting - Tuesday 8:00 – 10:00am
- Adjourn

March 8, 2004

Representative Carl Morgan  
Chair, Community and Regional Affairs Committee

SUBJECT: Senate Bill No. 190

Dear Representative Morgan and Committee Members

My name is Bill Stockwell and I am from Cooper Landing. I ask that this letter be accepted as my testimony on SB 190.

As listed in Section 2 of this bill, I support the land additions to KRSMA and hope this process can continue as planned.

However, I am ADAMANTLY OPPOSED to the changes in the voting membership composition of the KRSMA Advisory Board as proposed in Section 4 of this bill. The KRSMA Board has functioned admirably as a public/resource manager/community board for the past 20 years and has planned for and operated a most successful resource that has benefited all Alaskans and others as well. To eliminate as voting members the major watershed land managers (The State of Alaska, US Forest Service, and the Kenai National Wildlife Refuge) while leaving Soldotna, Kenai and the Borough as voting members unfairly disfranchises and needlessly discriminates against the rest of the citizens of Alaska and the United States while favoring only those residents of municipalities adjacent to the Kenai River. Residents of Anchorage, the Mat-Su and elsewhere own businesses, property, fish and use the Kenai River Watershed. To deny them their collective vote by law is unequal treatment and poor public policy.

This issue is important to the Community of Cooper Landing. People come from Alaska and throughout the world to enjoy the scenery and resources of our area. The economy of Cooper Landing is almost totally dependent on the resources of the Kenai River Watershed and the residents of Cooper Landing enjoy a lifestyle that the local area and resources provide. The Community remains active on river issues and continues to support the KRSMA Plan. However, Cooper landing is not a municipality. I feel that proposed changes to the KRSMA Board would unfairly favor the Lower Kenai River municipalities against the communities in the Upper Kenai River Watershed. While Cooper Landing is represented by the Borough, our small voting numbers and distance from the seat of Borough government leaves us at a disadvantage.

Please leave the River Board Membership as is. Thank you for reading my comments and concerns.

Sincerely,



Bill Stockwell

P.O. Box 721

Cooper Landing, AK 99572

Phone 595-1540

cc: Representative Seaton



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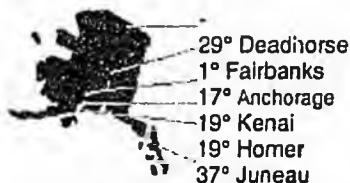
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**Legislator still questions KRSA  
Update From Juneau**

**Rep. Kelly Wolf**

As your legislator, my job is to represent the constituents of District 33 on the Kenai Peninsula. I have worked to do that to the best of my ability, taking into consideration all the different interactions of our sometimes very diverse community. One thing I promised when I took this job was that I would not ride the fence. As a child, I was taught right from wrong and to take responsibility. I also was taught to stand up for what I believe, no matter what the odds.

As your representative, I want to explain to you what I see as the difference between what's right and wrong.

Since 1994, Kenai River Sportfishing Association has been holding a "fishing derby" under the name "Kenai River Classic." The group's former executive director who assisted in starting the Kenai River Classic clarifies this event as a "fishing derby" in his letter dated April 29, 1994, requesting a permit from the state Department of Revenue for this event.

Since this time, Kenai River Sportfishing Association has failed to report gross receipts and the net proceeds on the (schedule AO) operate/multiple-beneficiary permit activity report, as required under the terms and conditions and issuance of a gaming permit in the state of Alaska.

From the beginning, in 1994, management of the Kenai River Classic has raised questions within our community over expenditures and the board members' agenda governing their three top priorities: allocation, conservation and education.

In my investigation of Kenai River Sport-fishing Association's Kenai River Classic, I have discovered several questionable issues surrounding this "fishing derby."

1. A fishing derby is an event that awards prizes to contestants for catching fish.
2. Kenai River SportFishing Association awards prizes to winners of the Kenai River Classic in three categories. These trophies are not of cash, but hand carved trophies having a moderate value between \$ 100 and \$300 per current market

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value and the artist's reputation and

popularity. They hand carve these one-of-a-kind trophies for this special event.

3. Kenai River Sportfishing Association's "Release a Hog Program" is a year-round event that pays an individual \$900 toward an artificial

mount of equal size for king salmon that is caught and released which is categorized as a "hog" by KRSA's pre-approved guides. The Kenai River Classic also has a catch-release trophy and encourages catch and release of fish categorized as "hogs." This brings up the question of whether players of the event have ever been awarded funds for such a mount, which without question has a value?

4. This event looks to be a lightly veiled political action committee, or PAC, event for lobbyists to present their issues to powerful elected officials while under the guise of a gaming event. Information from past members of the organization state that pairing of players with elected officials takes place during the event. As well as questions about accounting of event funds, questions are raised as to the creditability of board members and their particular agendas.

5. This investigation has gathered legal information pertaining to the handling of gross revenues and net proceeds from gaming events. Gaming revenues are to be deposited in gaming accounts and reported annually to the Department of Revenue. Net proceeds from gaming events must be dedicated within one year to one or more uses as defined in regulations. An excise tax is required to be paid on all net proceeds of gaming activities.

6. Under the Department of Revenue gaming regulations, only net proceeds may be used for education for the organization's and/or membership's well being.

7. A "fishing derby association" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes, but does not include an organization formed or operated for gaming or

gambling purposes. By definition, a fish derby means a contest in which prizes are awarded for catching fish.

Kenai River Sportfishing Association previously reported to the Internal Revenue Service on its 990 forms that it does not engage in any political activity during prior time periods. KRSA has in past years certified that the organization did attempt to influence public opinion

on legislation or referendums.

More recently, the current executive director on Feb. 19 testified to the Kenai River Special Management Area board that less than 2 percent of the program expenses go toward efforts to influence the Board of Fish. While this action raises the question over the annual amount of these political expenditures, KRSA has continually failed to report these expenditures on its 990 forms.

Additional questions continue to rise concerning why this gaming event is using revenues under program expenses to influence legislation and promote allocation. The most recent point is that during testimony on House Bill 396 both the executive director and KRSA's president identified themselves as members from Kenai River Sportfishing Association as they attempted to influence legislation by testifying against a House bill, which is currently in the Alaska State Legislature.

The department regulates political activities by nonprofit organizations that raise revenues from charitable gaming events, if those organizations are filing their reports. The salary of the director and expenses for their volunteer board members who continually attend Board of Fish meetings and hold legislative receptions for elected officials here in Juneau raises a stark alarm as to where these funds are being generated. Which brings into question the honored reputation of the organization and possibly its members.

These questions and a great many others have been raised during this investigation in regard to the accounting of the Kenai River Classic revenues which generates its entirety of funds from a public resource within a critical habitat area with little to no government oversight. Up to now KRSA enjoyed strong political support until one lone legislator had the fortitude to make a stand against the political consequences and questionable actions of the KRSA board of directors.

*Rep. Kelly Wolf, R-Kenai, represents District 33 in the Alaska House of Representatives. He was elected in 2002.*

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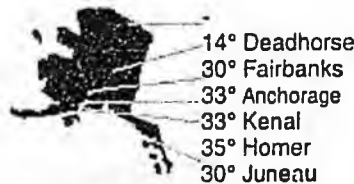
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Web posted Sunday, April 18, 2004

**Wagoner bill gets KRSMA backing**

By **MATT TUNSETH**  
*Peninsula Clarion*

Something's better than nothing.

The Kenai River Special Management Advisory Board on Thursday endorsed a bill in the Alaska State Senate that would add approximately 536 acres to the Alaska State Parks management area < but not before board members voiced their frustration that the inclusion falls short of what they'd like to see added.

"I find it to be woefully inadequate," said board member Paul Shadura.

"This is another frustrating wall we've hit here," echoed board member Jim Golden.

The board members directed their remarks toward staff members from the office of Sen. Tom Wagoner, R-Kenai, who were participating in the meeting via teleconference. Wagoner is the sponsor of the bill in question < SB 190.

Their comments seemed to strike a nerve with Wagoner's staff, who wondered aloud about board members' assertion that the bill doesn't go far enough to add lands into the special management area.

"If it wasn't worth your trouble, why did you bring it to the senator?" asked Mary Jackson, a member of Wagoner's staff.

Jackson's remarks seemed to cause board members to soften their position.

"That's 500 acres more than we had before," pointed out board member Jeff King.

Another issue for the board to consider regarding the bill had to deal with the provision that state officials not be allowed to serve on the board. Currently, the board includes seats for members of state and federal agencies. Under Wagoner's bill, those seats would remain, but agency officials would be included as ex-officio members without the right to vote.

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On that issue, the board seemed to feel that although agency officials provide valuable input, taking away voting privileges was less of an issue than getting at least some land added to the management area.

"To me, the land inclusion < even if it is 500 acres < trumps that," King said.

Shadura, however, said he believes agency representatives provide valuable input and shouldn't be excluded from being full members.

"One of the reasons I come to this board is to be able to sit with federal and state agencies," he said.

Jackson said Wagoner believes agency members do provide valuable input, and that the ex-officio provision would still allow those agency members to lend their expertise to the board.

"It's just flat stupid to turn away talent," she said.

In the end, the board decided the inclusion of the 536 acres was worth its endorsement and voted 10-3 to relay the message to Wagoner that he should continue pushing the bill.

The board, however, did not speak in favor of a potential addition to the bill being pushed by Rep. Kelly Wolf, R-Kenai. Jackson said Wolf is seeking to include a provision that would disallow "derby-style fishing events" that attract large amounts of anglers to the river.

Board members who spoke to Wolf's proposal were unanimous in their belief that the proposal is a thinly-veiled attack on the Kenai River Sportfishing Association's annual Kenai River Classic, and they took issue with Wolf's desire to include a provision that seems to have little to do with the original bill.

"I don't like it to be tagged on to the bill," said board member Ted Wellman, who likened Wolf's proposal to comparing apples and oranges. "I think that's inappropriate."

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# STATE OF ALASKA

## Cooper Landing Fish & Game Advisory Committee

Frank H Murkowski, Governor

Bill Stockwell, Chair  
PO Box 721  
Cooper Landing, AK 99572-0721  
Phone: 595-1540

March 20, 2004

Honorable Carl Morgan  
Chair, House Community and Regional Affairs Committee  
State Capitol Building,  
Juneau, AK 99801-1182

SENT BY FAX 2 PAGES

SUBJECT: Senate Bill 190

Dear Chairman Morgan and Committee Members

At our meeting of March 18, 2004, the members of the Cooper Landing Advisory Committee voted unanimously to OPPOSE Section 4 of Senate Bill 190, changing the KRSMA Advisory Board Membership, and asked me to relay this opposition to our District Representative Paul Seaton which I did. His office informed me that your House Committee would be holding a hearing on March 23 and suggested that I contact you direct with our concerns.

The Cooper Landing AC SUPPORTS adding Lower River Lands to KRSMA, Section 2 of SB 190, and hope more additions can continue to be added in the future. However, we strongly feel that the proposed change to the voting membership of the KRSMA Advisory Board, Section 4 of SB 190, is certainly not in the best interest of Community of Cooper Landing and is bad policy for all Alaskans. We ask you to OPPOSE this section and AMEND TO REMOVE Section 4 before enactment of SB 190.

Cooper Landing is an unincorporated community whose residents depend on the health of the Kenai River Watershed and its adjacent land for their economic well-being and quality of life. While our voting population is small, much of the river's resources and viable habitat are in our area. The Community has depended for many years on good working relationships with ADF&G, DNR Lands and Parks, the Kenai National Wildlife Refuge, and the Forest Service for the management of our area's most vital resources. As proposed in Section 4 of SB 190, these land managers and resource experts would no longer vote on Kenai River issues vital to Cooper Landing while leaving the Municipalities of Soldotna, Kenai and the Borough as voting members. This change would shift the power to manage the Kenai River to the population base at the mouth of the river and be to the detriment of the residents of the Upper Kenai River and all Alaskans and other users in general.

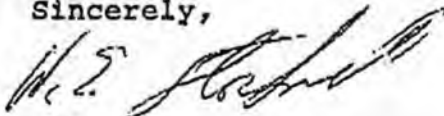
PAGE 2 COOPER LANDING ADVISORY COMMITTEE MARCH 20, 2004

We believe that the changes proposed in Section 4 of SB 190 violate the original intent of the 1984 KRSMA Act. In Section 1, Findings, of the 1984 Act it states: "A multitude of state and federal agencies with jurisdiction over various aspects of the river and adjacent public lands creates a labyrinth of regulation without effectively preventing the river's deterioration. The river's fishery and wildlife are its most important resources. The highest priority uses of the river and its adjacent land derive from its fishery and wildlife which must be protected and preserved to ensure their renewability and continued usefulness. To solve the river's problems a need exists for a comprehensive management plan for the river and its adjacent land and for coordinated management."

Coordinated management of the Kenai River Watershed requires that all land and water managers, resource managers, users and the public have equal seats at the table and that all have an equal voice and vote. To do otherwise violates the original findings of the act. Depriving all governmental entities except municipalities from vote is both unwise and poor public policy. While the health the Kenai River is of importance to adjacent municipalities, their expertise is not in management of fish and wildlife habitat and resources but in the development of land for growth and tax purposes. To leave the municipalities adjacent to the Kenai River as the only governmental entities with vote certainly seems to violate the finding that "The river's fishery and wildlife are its most important resources."

Thank you for allowing us this opportunity to provide testimony on Senate Bill 190 and thank you for examining our concerns and comments. We ask that Section 4 of SB 190 be removed in fairness to all Alaskans. If you need more information or have any questions, please contact Bill Stockwell by phone or fax at 595-1540.

Sincerely,



Bill Stockwell, Chair

cc: Representative Paul Seaton  
ADF&G Board Support