

**HB**

**37**

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 37(FSH)  
 (H) Publish Date: 4/18/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title An act relating to public access RDU Sport Fisheries  
to fishing streams Component Sport Fisheries  
 Sponsor Representative Gara  
 Requester House Special Committee on Fisheries Component No. 464

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill requires the Alaska Department of Fish and Game (ADF&G) to annually compile a list of land along fishing waterways where access to the waterways is impeded by private land ownership. In compiling this list, ADF&G is required to take public input and consider a number of conditions outlined in this bill. Once completed, ADF&G will submit this list to the Commissioner of the Department of Natural Resources for consideration. ADF&G is able to comply with the provisions in this legislation without additional funding and/or staff.

Prepared by: Sarah Gilbertson  
 Division: Legislative Liaison  
 Approved by: Acting Commissioner Wayne Regelin  
 Agency: Alaska Department of Fish & Game

Phone: 465-6137  
 Date/Time: 1/28/05 8:35 a.m.  
 Date: 1/28/2005

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHB 37(FSH)  
 (H) Publish Date: 4/18/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title: Public Access to Fishing Streams RDU: Resource Development  
 Component: Title Acquisition & Defense  
 Sponsor: Rep. Gara  
 Requester: (H) FSH Component No. 2459

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	40.2	40.2	40.2	40.2	40.2	40.2
Travel	2.0	2.0	2.0	2.0	2.0	2.0
Contractual	2.0	2.0	2.0	2.0	2.0	2.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	45.2	45.2	45.2	45.2	45.2	45.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>

Estimate of any current year (FY2005) cost: 00

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

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

This bill requires DNR, working with the Alaska Department of Fish and Game (ADF&G), to identify private lands that the state should acquire to provide public access to and along popular fishing streams, and then directs DNR to pursue acquisition through purchase of easements, land exchanges, and or fee simple purchase.

Section 2 of the bill requires ADF&G to identify undeveloped land along popular fishing streams for possible acquisition. The bill identifies three areas where this process will look at first, but envisions an ongoing, statewide process. ADF&G then submits the list of parcels to DNR to acquire the land. This fiscal note does not include the actual cost to negotiate and appraise individual acquisitions, and does not include funding to pay the purchase price for acquisitions.

Prepared by: Bob Loeffler, Director Phone: 269-8625  
 Division: Mining, Land & Water Date/Time: 3/18/2005  
 Approved by: Tom Irwin, Commissioner Date: 3/18/2005  
 Agency: Natural Resources

## FISCAL NOTE #2

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. CSHB 37(FSH)

### ANALYSIS CONTINUATION

This fiscal note assumes that ADF&G will provide DNR with a list of parcels, maps of the parcels, names and addresses of property owners, and other information about the parcels. ADF&G will submit a separate fiscal note for these costs.

Section 3 of the bill directs DNR to acquire the lands identified by ADF&G. This fiscal note only includes DNR's costs to conduct initial land title work, field inspections of parcels to be acquired, and preliminary discussions with the owners of parcels that the state desires to acquire.

After these preliminary discussions, DNR would then request appropriations from the legislature to fund work on each parcel or group of parcels, including costs for negotiation, appraisals, surveys, complete land title reviews, and purchase of the land. If the specific acquisitions are not funded, DNR would not be able to pursue the acquisitions further.

DNR's initial costs that are included in this Fiscal Note are:

#### PERSONAL SERVICES COST - \$40.2

Natural Resource Specialist (NRS) III and Land Appraiser II (range 18s) - total 2 months @ \$6.0/month = \$12.0 - to discuss acquisitions with property owners and estimate costs associated with individual parcel acquisitions.

Natural Resource Specialist (NRS) I (range 14) - 6 months @ \$4.7/month = \$28.2 - to conduct initial land title, preliminary valuation, and other research for all parcels.

TRAVEL, CONTRACTUAL, SUPPLIES - total \$5.0 - includes travel to sites (initial areas are all road accessible), research of municipal title records, office supplies, etc.

#### LONG TERM COSTS ASSOCIATED WITH ACTUAL ACQUISITIONS - Not included in Fiscal Note

This fiscal note does not include the cost associated with negotiating the land purchase or exchanges, land appraisals, preparing and recording title documents, any necessary survey costs, and other related costs. DNR's experience with recent land acquisitions indicates that one NRS III position can negotiate and coordinate about four acquisitions per year. Some support staff time is also needed for document preparation, record keeping, additional title research, etc. Based on this, the estimated cost for each purchase is \$40.0 (\$25.0 for personal services and \$15.0 for contractual services including appraisal and environmental audit). Land exchanges are significantly more labor intensive, based on recent experience, the cost for land exchanges is \$50.0 to \$100.0 per parcel.

Actual acquisition costs will vary by area and size of parcels. DNR estimates that parcels that provide access to Montana and Willow Creeks along the Parks Highway will cost about \$7,500 per acre for 5-10 acre parcels (\$375 - \$750 per parcel). Recent ADF&G purchases of parcels for access along the Anchor River and Deep Creek on the Kenai Peninsula were higher, averaging about \$100.0 per parcel.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: CSHB 37(FIN)  
 (H) Publish Date: 5/8/2005

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DNR  
 Title Public Access to fishing Streams RDU Resource Development  
 Component Title Acquisition & Defense  
 Sponsor Gara  
 Requester House Finance Committee Component No. 2459

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--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 (FY2005) ccst: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Prepared by: House Finance Committee Phone 465-1945  
 Division \_\_\_\_\_ Date/Time \_\_\_\_\_  
 Approved by: Rep. Meyer, Co-Chair Date 5/8/2005  
 Agency Rep. Chenault, Co-Chair

## FISCAL NOTE #2

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. CSHB 37(FSH)

### ANALYSIS CONTINUATION

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#### PERSONAL SERVICES COST - \$40.2

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TRAVEL, CONTRACTUAL, SUPPLIES - total \$5.0 - includes travel to sites (initial areas are all road accessible), research of municipal title records, office supplies, etc.

#### LONG TERM COSTS ASSOCIATED WITH ACTUAL ACQUISITIONS - Not included in Fiscal Note.

This fiscal note does not include the cost associated with negotiating the land purchase or exchanges, land appraisals, preparing and recording title documents, any necessary survey costs, and other related costs. DNR's experience with recent land acquisitions indicates that one NRS III position can negotiate and coordinate about four acquisitions per year. Some support staff time is also needed for document preparation, record keeping, additional title research, etc. Based on this, the estimated cost for each purchase is \$40.0 (\$25.0 for personal services and \$15.0 for contractual services including appraisal and environmental audit). Land exchanges are significantly more labor intensive, based on recent experience the cost for land exchanges is \$50.0 to \$100.0 per parcel.

Actual acquisition costs will vary by area and size of parcels. DNR estimates that parcels that provide access to Montana and Willow Creeks along the Parks Highway will cost about \$7,500 per acre for 5-10 acre parcels (\$375 - \$750 per parcel). Recent ADF&G purchases of parcels for access along the Anchor River and Deep Creek on the Kenai Peninsula were higher, averaging about \$100.0 per parcel.

HR 37 Packet –Supplemental Materials

- Cover Sheet \_\_\_\_\_ 1 page
  
- Previous Bill Versions
  - HB 37a – version \G \_\_\_\_\_ 5 pages
  - HB 37b – version \L \_\_\_\_\_ 5 pages
  - HB 37c – version \S \_\_\_\_\_ 5 pages
  - HB 37d – version \X \_\_\_\_\_ 4 pages
  
- Previous Fiscal Notes
  - #1 ADF&G 4-18-05 \_\_\_\_\_ 1 page
  - #2 DNR 4-18-05 \_\_\_\_\_ 2 pages
  - #3 DNR 5-8-05 \_\_\_\_\_ 1 page
  
- HB 37 Minutes
  - House Fisheries 3-23-05 \_\_\_\_\_ 5 pages
  - House Fisheries 4-15-05 \_\_\_\_\_ 2 pages
  - House Resources 4-22-05 \_\_\_\_\_ 2 pages
  - House Finance 5-07-05 \_\_\_\_\_ 5 pages
  
- House Journal – Letter of Intent 5-09-05 \_\_\_\_\_ 1 page
  
- Bill History \_\_\_\_\_ 2 pages
  
  
- **Total Pages** \_\_\_\_\_ **41 pages**

**House FISHERIES Minute****Mar 23, 2005**HB 37-PUBLIC ACCESS TO FISHING STREAMS9:32:21 AM

CO-CHAIR LEDOUX announced that the final order of business would be HOUSE BILL NO. 37, "An Act relating to public access to fishing streams."

9:32:54 AM

REPRESENTATIVE LES GARA, Alaska State Legislature, presented HB 37 as bill sponsor. He explained that the bill is an attempt to ensure public access to stream bank lands. There are a number of streams in Alaska where people hike and fish with the assumption that the land is public, but it's actually privately owned, he pointed out. He stated, "There's a fear among some in the fishing community that while today things are fine, [in the future] as these lands get developed, people won't have access to their trout streams and steelhead streams and salmon streams any more." He opined that the state has generally done a very good job at maintaining public access to fishing streams; since the 1980s the state has been required to maintain public access to and along fishing streams when it gives away land. However, prior to this requirement, there were a number of federal land transfers to private parties where no public access was reserved. He explained that under HB 37, ADF&G would identify certain areas where the public would benefit from public access to fishing streams, and the resulting list would "create public discussion about whether or not we should ever negotiate to try and get some of these lands back into public ownership, or get public easements back."

9:35:27 AM

REPRESENTATIVE GARA emphasized:

The land trades or land purchases could only occur with a willing, voluntary landowner who wanted to engage in a land trade or land sale. ... There's nothing about this bill that gives the state the power to take anything from anybody; it's just a voluntary program, and really the list is created in a way to create public discussion so we can get some of these stream bank lands back into public ownership before they're developed.

REPRESENTATIVE GARA presented a few examples of streams and rivers where the public fish on private lands. He pointed out that the Anchor River on the Kenai River is a highly valued steelhead and salmo. stream, and much of it is privately owned but hasn't been developed yet. There are many privately owned fishing streams along the Parks Highway as well. He stated that

the streams haven't been developed much yet, but "one of these days [they] will be and the public will lose access to them." Therefore, he said:

That's the motivation behind the bill: it's to keep this quality of life we have here where we're able to access the outdoors, and use the outdoors, and enjoy the outdoors in a way where, in other states, many of the prized fishing streams you have to pay for access, sometimes thousands of dollars a week to a rancher or to a lodge owner to access a fishing stream. We just want to make sure that doesn't become the case here.

9:37:26 AM

CO-CHAIR LEDOUX asked, regarding the specific pieces of land that had been mentioned in the presentation, what was the reaction of the owners of these properties.

REPRESENTATIVE GARA replied that the landowners have not been contacted; "if they decide they don't want to trade or they don't want to sell, they just won't." He mentioned that a property owner on Deep Creek has expressed an interest in selling her property to the state.

9:38:28 AM

CO-CHAIR LEDOUX asked if there was a fiscal note.

REPRESENTATIVE GARA responded that there was a zero fiscal note from ADF&G because it can do this as part of its current duties. The Alaska Department of Natural Resources (DNR) would have to do appraisals and land surveys, and therefore they have a \$40,000 fiscal note.

9:39:17 AM

CO-CHAIR THOMAS asked if the bill would be continuous, with no sunset date.

REPRESENTATIVE GARA replied that ADF&G would put together a list of streams and the state would decide if and when to trade or buy the land on the list. The ADF&G could add to the list, but "if at some point the state decides [that it is] not going to buy or trade for anymore land, the list probably won't change anymore and it will just remain there.

9:39:58 AM

CO-CHAIR THOMAS turned to page 3, line 24, and voiced concern about the need to allow for an appeal.

REPRESENTATIVE GARA explained that an appeal process was left out of the bill because "we'd like [ADF&G] to come up with a list of sort of high value areas that we'd like to get public access back on. We can do that in a very easy way and say, 'Look you have the expertise within your agencies and within DNR to know what those areas are now' take public testimony, get some public comment, and that's provided for in the bill, and then just come up with a list. Or we could impose very specific

standards on which lands they would have to pick, and if we did that and had an appeals process that required more formal studies to determine which lands would end up on the list, I think it would just become very expensive and so I tried to avoid any sort of formal process that would impose the expense of appeal, that would impose the expense of studies, that ... ok the expense of staff. The bill as it is written right now is pretty informal

9:41:38 AM

CO-CHAIR THOMAS turned to page 4, line 12 and voiced concern that the state would take over the private property for a very low price.

REPRESENTATIVE GARA answered that the intention of the bill was "to do the exact opposite," and give the state the ability to offer more than the fair market value for property. He mentioned that he would be willing to take this part out of the bill if the committee so wished. He also noted, "There can never be a land purchase under this bill unless the private property owner wants to sell it."

9:43:09 AM

REPRESENTATIVE KAPSNER commented that the Bethel region is all federal land and native allotments, and she stated, "I'm worried about the regions of the state where the rivers abut state land or private land, and then the access of subsistence users."

REPRESENTATIVE GARA remarked that there is already public access to federal lands and so this bill would have no impact on those. He continued:

The intent is to allow public access for all Alaskans, whether it's subsistence users, sport fish users, other recreational users, [or] commercial users; it's to maintain public access so all Alaskans can enjoy the public resource. ... This bill actually doesn't change the law anywhere or have any impact except that it allows the state to try and engage in voluntary land trades and purchases to get some more public access with a willing property owner.

9:44:25 AM

REPRESENTATIVE GARA, in response to Representative Kapsner, reiterated that the state would only buy land from landowners who wish to sell.

9:45:15 AM

REPRESENTATIVE WILSON asked how the state would deal with the Alaska Mental Health Trust Land near Wrangell.

REPRESENTATIVE GARA replied that when the state retained easements and public access to streams when it transferred lands to the Mental Health Trust.

9:46:18 AM

REPRESENTATIVE WILSON stated concern about the list because local residents may not want others to know the locations of the nearby fishing streams.

REPRESENTATIVE GARA responded, "It's the conflict between trying to protect an area and not wanting to talk about it." He noted that the areas Representative Wilson referred to are probably already publicly accessible and therefore wouldn't end up on the list. He continued:

We're trying to keep the list very small, [naming only] the highest priority lands ... where the public doesn't have access, and so we said roughly ... two miles' worth of land should be on the list, so they probably wouldn't get into an area like [Representative Wilson is] talking about anyway. ... But I don't know how to get public access to a stream without mentioning it. ... The list isn't a list of places that are great places to fish; it's a list of places where there's no public access.

9:48:55 AM

REPRESENTATIVE SALMON remarked that this bill would be bad for his district. He expressed concern that if "[the state wants] that land they'll get it, no matter how... If they want to get it, they'll get it. ... Privately dealing with [the state] is not good for the public to begin with." He opined that the state should have allowed for public access to begin with. He commented that he viewed the bill as an attempt to expand Anchorage, because "Anchorage is in kind of a little fishbowl area and now [Anchorage residents] want more room to play, and if they should play, then they should pay."

9:51:12 AM

BOB CHURCHILL, President, Alaska Council of the Federation of Fly Fishers (FFF), testified in favor of HB 37. He commented that he understood the concern regarding the possible influx of people to areas, but he stated that he didn't think this would happen because travel is very expensive in Alaska. He did express concern that if land passes into private ownership and then "gets locked up," then average Alaskans can no longer use those streams. He said:

There may be a belief that you're going to get inundated in areas outside of the population centers; [however] I think [that HB 37] is far more advantageous to those that live in those areas now, that they can continue to have access. I see the land being bought by folks from out of state, and those of us that live here and pay our taxes and raise our children are going to be the very ones excluded if we don't start moving to ensure we continue to have public access to these waterways.

MR. CHURCHILL noted that there was an effort on the Kenai Peninsula about 4-5 years ago where the landowners voluntarily [sold stream access to the state].

9:53:50 AM

CO-CHAIR LEDOUX closed public testimony.


[HB 37 was held over].

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**Bill Root:** |

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## House FISHERIES Minute



**Apr 15, 2005**

HB 37-PUBLIC ACCESS TO FISHING STREAMS

8:41:49 AM

CO-CHAIR THOMAS announced that the first order of business would be HOUSE BILL NO. 37, "An Act relating to public access to fishing streams."

CO-CHAIR LEDOIX moved to adopt committee substitute for HB 218, Version 24-LS0284\I, Bullock, 4/14/05. There being no objection, Version I was before the committee.

8:42:00 AM

REPRESENTATIVE LES GARA, Alaska State Legislature, as sponsor explained that Version I has a few changes from the original bill. First, the title on page 1, line 1 was changed in order to clarify that the bill only applied to voluntary land trades and purchases. Second, page 1, lines 7-9 were added to further clarify that that this would be a voluntary program. Third, subsection (c) from the original bill, regarding sale price negotiations "without regard to the fair market value of the land or easement" was deleted in Version I. Fourth, language was added on page 4, lines 9-10, which says, "The right of eminent domain may not be exercised to acquire land or interest in land under this section." Lastly, lines 20-23 were added on page 4, which say:

Within 60 days after receiving a written request from a landowner requesting the removal of the landowner's land from the list to be acquired under the plan, the commissioner shall remove the landowner's land from the list, even if the removal leaves less than two meander miles along fishing streams.

8:43:57 AM

REPRESENTATIVE ELKINS commented that HB 218 works well in conjunction with HB 252, which would fund the construction of new hatcheries. He said, "It doesn't make much sense to produce more fish and not take some effort to try to allow people access to the waters where the fish are going to be planted."

8:44:36 AM

REPRESENTATIVE LEDOIX pointed out that on her copy of the bill, someone had crossed out the word "shall" and handwrote the word "must" on page 5, line 2. She asked why this was so.

REPRESENTATIVE GARA replied that he wasn't sure why it was so altered.

8:45:09 AM

REPRESENTATIVE WILSON clarified that the words "shall" and "must" don't mean the same thing and commented that statutes usually contain the words "shall" or "may." She said, "I don't like the word 'must.'" She noted that on page 4, line 9, the word "may" is used.

8:46:07 AM

RICKY GEASE, Kenai River Sport Fishing Association, testified in support of HB 218. He agreed that HB 252 and HB 218 are related, and said, "If we're going to put more fish in places, we need to have access to those places."

8:47:05 AM

DOUGLAS REYNOLDS testified in support of HB 218. He said, "I think it's very important to have additional access to the streams, especially on the Kenai [River]...." He noted that he is a fly fisherman, and he opined that "combat fishing" reduces the aesthetic experience of fishing. He said, "I feel that ... opening up these areas would give a better experience for fishing."

CO-CHAIR THOMAS closed public testimony.

8:49:01 AM

REPRESENTATIVE ELKINS moved to report the committed substitute for HB 37, Version 24-LS0284\I, Bullock, 4/14/05, out of committee with individual recommendations and the accompanying fiscal notes.

8:49:22 AM

REPRESENTATIVE SALMON objected.

8:50:08 AM

A roll call vote was taken. Representatives Elkins, Kapsner, LeDoux, and Thomas voted in favor of the bill. Representative Salmon voted against it. Representatives Harris and Wilson were absent. Therefore, CSHB 37(FSH) was reported out of the House Special Committee on Fisheries by a vote of 4-1.

Bill Root:

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Juneau, Alaska 99801-2105

Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

HB37

4/22/05 House Resources  
5/7/05 House Finance

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

*Division of Sport Fish*

**FRANK MURKOWSKI, GOVERNOR**

333 Raspberry Road  
Anchorage, AK 99518-1599  
PHONE: (907) 267-2326  
FAX: (907) 267-2464

Date January 27, 2006

To: Robin Willis

From : Jason Graham

Re: Access for Anchor, Montana, and Salcha Creeks

### **Anchor River**

Accessible: 16723 feet

Non-Accessible: 4542 feet

### **Montana Creek**

Accessible: 29063 feet

Non-Accessible: 17468 feet

### **Salcha Creek**

Accessible: 16181 feet

Non-Accessible: 16134 feet

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*" . . . shall manage, protect, maintain, improve, and extend the fish, game and aquatic plant resources of the state in the interest of the economy and general well-being of the state"*



# STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

## DEPARTMENT OF FISH AND GAME

333 Raspberry Road  
Anchorage, AK 99518-1599  
PHONE: (907) 267-2342  
FAX: (907) 267-2464

### DIVISION OF SPORT FISH

## MEMORANDUM

TO: Robin Willis, Tina Cunning

FROM: Joe Giefer  
Habitat Biologist

DATE: January 23, 2006

SUBJECT: Montana Creek To-and-Along Easements

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Location depicted on map: Montana Creek, USGS Quad TALKEETNA A-1 and TALKEETNA MOUNTAINS A-6, described as secs. 5, 7, and 8, T. 23 N., R.4 W., W.M., and secs. 11, 14, 15, 21, 22, 28, 32, and 33, T. 24 N., R. 4 W., Seward Meridian, Alaska.

The following distances are approximations based on the maps ADF&G has produced, they do not reflect distance's based on Federal, State, or Borough surveys or plats. On the lower reaches of Montana creek, there is approximately 29,063 feet of accessible shoreline and approximately 17,468 feet of non-accessible shoreline.

The private property depicted on the map without To & Along easements are older conveyances from the Federal Government directly to individual private citizens. As far as we know, these parcels are not subject to a To & Along reservation. In an effort to err on the side of caution, if it's not clear that there is access along the shoreline, ADF&G has assumed that there is not and has depicted it as such on our map. It is possible that some areas depicted as not having access do actually in fact have access, and this could be for a variety of reasons that cant be clarified until further research is done, particularly having some time spent on the ground looking at these areas on a site specific basis.

In secs. 11, 14, 15, 21, and 22, of T. 24 N., R. 4 W., both banks of Montana Creek are subject to a To & Along easement. Secs. 28, 32, and 33 of T. 24 N., R. 4 W., are composed of private parcels not subject to a To & Along reservation.

In T. 23 N., R. 4 W., both banks of Montana creek are subject to easements thru a small reach of State owned land in the N/E corner of sec. 5. In the S/W corner of sec. 5, the creek is subject to a To & Along on river-left, thru the extreme N/W corner of sec. 8, and on into sec. 7 where both banks are subject to a easement for a short distance, then again there is only a easement on river-left downriver to where Montana Creek flows into the Susitna River.

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*" . . . shall manage, protect, maintain, improve, and extend the fish, game and aquatic plant resources of the state in the interest of the economy and general well-being of the state "*



# STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

## DEPARTMENT OF FISH AND GAME

### DIVISION OF SPORT FISH

333 Raspberry Road  
Anchorage, AK 99518-1599  
PHONE: (907) 267-2342  
FAX: (907) 267-2464

## MEMORANDUM

TO: Robin Willis, Tina Cuning

FROM: Joe Giefer  
Habitat Biologist

DATE: January 27, 2006

SUBJECT: Salcha River To-and-Along Easements

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The location depicted on map is the Salcha River, USGS Quad BIG DELTA B-6, sections 21 and 22, T. 5 S., R. 4 E., Fairbanks Meridian, Alaska.

In this particular stretch of the Salcha, the current path of the river is an approximation at best, there is no current aerial photography or surveyed hydrography to use as a reference when comparing the river corridor to the adjacent uplands. The private properties depicted on the map without "To & Along" easements are generally older conveyances from the Federal Government directly to individual private citizens. As far as we know, these parcels are not subject to a "To & Along" reservation. In an effort to err on the side of caution, if it is not clear that there is access along the shoreline, ADF&G has assumed that there is not access and has depicted it as such on our map. It is possible that some areas depicted as not having access do actually have access, and this could be for a variety of reasons that can not be clarified until further research is done, particularly by spending some time on the ground looking at these areas on a site specific basis.

The following distances are approximations based on the maps ADF&G has produced, they do not reflect distances based on Federal, State, or Borough surveys or plats. On the reaches depicted in the maps of the Salcha River, there is approximately 16,181 feet of accessible shoreline and approximately 16,134 feet of non-accessible shoreline.

In sec. 22, there is a small tract of State owned land on both banks of the Salcha where the Richardson Highway crosses the river. These state owned tracts are subject to easements. There is also a boat launch on these same state owned tracts.



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In sec. 21, all the privately held land adjacent to the Salcha is subject to a To & Along easement. The west half of the northwest corner of sec. 21 is state owned land, immediately to the west of this tract is the confluence of the Tanana and the Salcha rivers.

# STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

## DEPARTMENT OF FISH AND GAME

### DIVISION OF SPORT FISH

333 Raspberry Road  
Anchorage, AK 99518-1599  
PHONE: (907) 267-2342  
FAX: (907) 267-2464

## MEMORANDUM

TO: Robin Willis, Tina Cuning

FROM: Joe Giefer  
Habitat Biologist

DATE: January 27, 2006

SUBJECT: Anchor River "To-and-Along" Easements (AS 38.05.127)

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The location depicted on map is the Anchor River, from the Sterling Highway downstream to the mouth of the river. This area can be found on USGS quad Seldovia D-5, section 33 of T. 4 S., R. 15 W., and sections 5, 4, 3, 10, 11, of T. 5 S., R. 15 W., Seward Meridian, Alaska

The following distances are approximations based on the maps ADF&G has produced, they do not reflect distances based on Federal, State, or Borough surveys or plats. On the reaches depicted on the map of the Anchor River, there is approximately 16,723 feet of accessible shoreline and approximately 4,542 feet of non-accessible shoreline.

Mapping the Anchor River in this area is particularly problematic given its tendency to move and meander over time as it nears the coast. The river channel we are using as a template is from year 2000 satellite imagery that we digitized and placed over the parcel boundary information. The private properties depicted on the map without "To & Along" easements are generally older conveyances from the Federal Government directly to individual private citizens. As far as we know, these parcels are not subject to a "To & Along" reservation. In an effort to err on the side of caution, if it is not clear that there is access along the shoreline, ADF&G has assumed that there is not access and has depicted it as such on our map. It is possible that some areas depicted as not having access do actually have access, and this could be for a variety of reasons that can not be clarified until further research is done, particularly by spending some time on the ground looking at these areas on a site specific basis.

In section 33, T. 4 S., R. 15 W., from the mouth of the river upstream to section 5, T. 5 S., R. 15 W., there is a small peninsula shaped parcel on river-left subject to an easement, however it is not continuous upstream into the adjoining southern section. In this area there appears to be no "To & Along" on a short stretch of uplands on river-left, and approximately the last 1/2 mile of shoreline of river-right at the mouth. Continuing upstream, where the river flows through state land in sec. 5, T. 5

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*"... shall manage, protect, maintain, improve, and extend the fish, game and aquatic plant resources of the state in the interest of the economy and general well-being of the state"*



S., R. 15 W., and continues east across sec. 4 of the same township/range both banks of the Anchor River are subject to an along easement, this is mostly state lands and access is assumed. The remaining area where access appears limited is a short distance from the highway downstream to where the river enters State land.

As you continue upstream where the river enters sections 10, 11. and into 14 of T. 5 S., R. 15 W., which is not depicted on map, uplands on river-right were conveyed from the United States to the Mental Health Trust. Lands on river-left were conveyed to the University and a small parcel has become part of the Mental Health Trust. The University and Mental Health Trust Lands have been inconsistently subject to provisions of Title 38 so shoreline access is unclear along these stretches of river.

HB 37 Packet – Sponsor Materials

- Cover Sheet \_\_\_\_\_ 1 page
- Sponsor Statement \_\_\_\_\_ 1 page
- Sectional Analysis \_\_\_\_\_ 1 page
- Letter of Intent \_\_\_\_\_ 1 page
- CS for HB 37 (FIN) am \_\_\_\_\_ 4 pages
- (new fiscal note will be distributed – see supplemental information for old fiscal notes)
- Informational Materials:
  - A.D.N. article \_\_\_\_\_ 2 pages
  - AS 38.05.127 Access to Navigable ... Water \_ 1 page
- Support Documents
  - Trout Unlimited letter 12-12-05 \_\_\_\_\_ 1 page
  - Cooper Landing Committee 12-12-05 \_\_\_\_\_ 1 page
  - Kenai River Sportfishing Association 4-20-05\_ 1 page
  - Alaska Flyfishers 3-09-05 \_\_\_\_\_ 1 page
  - Alaska Sportfishing Association \_\_\_\_\_ 1 page
- Total Pages \_\_\_\_\_ 16 pages

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

## **HB 37: State Land Trades/Purchases With Willing Landowners To Regain Fishing Stream Access** (Revised March 31, 2005)

Alaska's rivers are a treasured resource for fishermen, boaters, hunters, hikers, and people of all walks of life. We need to protect the public's access to them. House Bill 37 aims to ensure future public access to Alaska's fishing streams by putting in place a mechanism for voluntary land exchanges (or purchases) between the State and private owners along important recreational rivers. The program would be facilitated by the Department of Natural Resources and would be completely voluntary. The purchases or trades would only occur if a landowner is willing to engage in trade or sale voluntarily.

There are currently large stretches of private land on streams such as the Anchor River, Deep Creek, Parks Highway Streams, the Salcha River and others throughout the state. Today the public uses these streams, and has access to them. Once they're developed, we'll never be able to afford to get them back. HB 37 requires the state to identify private lands along certain high value recreational waters for possible easement or land purchases or trades.

To avoid costly litigation, it requires the state to use its expertise within the Departments of Fish and Game and Natural Resources to identify the most desirable lands for purchase or trade, after public input. But the bill does not allow legal challenges of those determinations.

Other states have waited too long to take steps like the ones proposed by this bill. In Montana, for example, fishermen have to pay for public access to some rivers. One hundred eighty miles of the Missouri River have been lost to public access, and that state now budgets \$300,000 per year to buy back parcels of riverbank land.

HB 37 will help insure that unparalleled recreational opportunities in our vibrant river corridors remain accessible, for our own and for future generations. It provides that the state should keep a registry of lands for possible trade or purchase.

The bill does not mandate any funding for trades or purchases, and therefore will lapse, in effect, once the state determines there is no longer a need to trade for or purchase public access.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

## **HB 37: Sectional Analysis State Land Trades/Purchases To Regain Fishing Stream Access From Willing Landowners**

The Bill's sections provide as follows:

### **Section 1: Findings.**

**Section 2.** This section gives the Commissioner of DNR the authority to prioritize lands that provide important public fishing stream access after public comment and consultation with the Department of Fish and Game. To prevent unneeded expense, the Commissioner's determinations are not appealable. The Commissioner is given the leeway to make these decisions, and is allowed to make the decisions upon available agency knowledge and public comment without engaging in expensive study.

**Section 3.** The state is encouraged to develop a registry of lands that are important for public fishing access, and to try to arrange a trade with willing landowners for other state lands, purchase the land outright, or purchase easements on it. The bill specifically requires that if landowners do not want to be listed, or approached with a trade or purchase offer, their land must be removed from the list. It further clarifies that eminent domain cannot be exercised under this section, as any purchases or trades will be purely voluntary under this bill.

**Section 4.** The Commissioner is encouraged to seek land purchases or exchanges on important fishing streams prior to private development on those streams, at which point such a transaction would become prohibitively expensive. Streams with undeveloped private lands that, if developed, would impede important public access, include the following prized trout/steelhead/salmon fisheries: Montana and Willow Creeks above the Parks Highway in Southcentral Alaska; the Anchor River and Deep Creek on the Kenai Peninsula; and the Salcha River south of North Pole. The Commissioner is encouraged to seek to obtain public access on these and other streams that provide important public fishing opportunities.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

May 9, 2005

## LETTER OF INTENT CSHB 37 (FIN)

"It is the intent of the legislature to ensure Alaskans retain ample public access to Alaska's fishing streams. While the state has retained public access to and along important recreational waters when land has been transferred under current law, land sales and disposals under prior laws or by the federal government to private landowners resulted in hampered or no legal public access to important fishing waters in the state. It is in the interest of the state to try to negotiate land or easement purchases or trades for property along important fishing and recreational waters, with willing landowners in a voluntary manner, before it becomes too expensive to accomplish the goal of preserving and protecting public access to and along the state's important fishing waters.

It is also the intent of the Legislature that, in implementing this Act, the Department of Natural Resources and the Department of Fish and Game may not be placed under strictures or be subject to appeal rules that would add undue cost to this program."

**B****MOLLY IVINS LETS LOOSE**

Political columnist Molly Ivins will speak in Anchorage on July 21. Check out what she told the Daily News about both George Bushes, sodomy in Texas, tax cuts, her new book, and the Alaska-Texas rivalry. **Q&A in Opinion, Page 3-B**

# ALASKA

ANCHORAGE DAILY NEWS • www.adn.com

TUESDAY, JULY 13, 2004

## Prime fishing land might be sold off

**ANCHOR RIVER:** Sale of five-acre parcels could eliminate public access.

By JOEL GAY  
Anchorage Daily News

The benches, banks and wetlands along one of the Kenai Peninsula's most popular fishing streams are being subdivided into five-acre parcels that, if sold, could eliminate public access to the lower Anchor River.

The owners say they've tried for years to sell the land to the state but could never agree on a price. Now it's time to move on, they say, and the first

step is chopping their two large parcels into 20 smaller ones.

They hope to win preliminary approval of their subdivision plan Monday night from the Kenai Peninsula Borough. The lots could be on the market later this summer.

Supporters of a buyout still hope the land can be purchased and put into public ownership. The landowners say they're still willing to sell. But time is drawing short, said Lynn Whitmore, a longtime local angler who just recently learned about the proposed subdivision.

"I'm going to urge that they try to convert this to public land, by whatever means necessary," he said. "I want the (borough) mayor or somebody to sit down with these two sides and resolve this."

**THE KENAI PENINSULA BOROUGH PLANNING COMMITTEE** will hold a public hearing on the proposed Anchor River subdivision at 5:30 p.m. Monday in the Borough Building in Seldovia. For more information, go to [www.borough.kenai.ak.us/planningdept](http://www.borough.kenai.ak.us/planningdept), then click on Plat Committee, Jan Agardus.

or means necessary," he said. "I want the (borough) mayor or somebody to sit down with these two sides and resolve this."

Anchor Point pioneer Vern Mutch homesteaded the area decades ago, selecting land that ran from atop the bluff to the Cook Inlet beach, with the

river running through it. His son Paul, a commercial fisherman who lives in Ugeahuk, now owns much of the land, including a 45-acre parcel just north of one of the river's most popular fishing spots, the Green Hole.

The state Division of Parks owns the adjoining lot to the south, where it provides parking and a boat launch. But thousands of fishermen every year pass through the state land onto the Mutch property, where they camp on the gravel beach and tramp through wetlands to reach the river.

Many also walk or drive ATVs even farther north, toward the river mouth, where they trespass on a 12-acre par-

cel owned by Jim Jacobs.

The parks superintendent on the lower peninsula, Chris Degersen, said it's difficult to imagine the private land suddenly being posted with no-trespassing signs. "The public has used that property so many years — as if it were public — that it will be difficult to keep the public off," she said.

The Division of Parks and the Alaska Department of Fish and Game have wanted to buy the Anchor River lands for years, she said. It's rich territory. About 50,000 to 60,000 people visit every year, she said, mostly to fish. The

See Page B-4, LAND

## Trees cut to reduce fire danger

**CLEARING:** Crews of firefighters at work in woods throughout city.

By TATABOLINE BRANT  
Anchorage Daily News

Firefighters cut down several tall trees in Kincaid Park last week and chopped them into firewood-sized logs, and officials say the work is just one small part of an ongoing federally funded effort to reduce the chance of a bad wildfire in Alaska's largest city.

About a dozen brush piles lined Parkwood Road near the

## WEST COAST WEATHER



## HUD funds for city in jeopardy

**GRANTS:** "It's at a critical stage," says Mayor Begich, who has stepped in.

By ROSEMARY BISHOPHARA  
Anchorage Daily News

The new mayor's transition report last week pointed to a crisis in public housing. The city is in danger of losing federal Housing and Urban Development grants next year.

# LAND: Price undecided

Continued from B-1

season starts Memorial Day with king salmon, then continues through freezeup with runs of silver salmon, Dolly Varden and steelhead trout. Migrating birds stop by every spring and fall, and others spend the winter.

There is strong support for public ownership, Degernes said, but the stumbling block has always been the land appraisal.

"Land like that is difficult to appraise," she said. Comparable lands rarely sell, so there is little to base an estimate of land value on. And the land is impossible to develop because of its wetlands, the constantly changing river course and winter storm damage.

The Kenai Peninsula Borough appraises the Mutch property at \$16,500 and the Jacobs land at \$15,000. The owners believe the parcels are worth much more, as does the state, though neither side will reveal its offer. But they can't agree on a price, Degernes said.

"We can't just pay what the seller wants," she said. "It has to be based on fair market value, and that's been the stumbling block time and time again."

After negotiations with Fish and Game fell apart several years ago, The Nature Conservancy stepped in. The conservancy buys high-value land, often using a combination of government grants and private funds. It won a \$417,000 National Coastal Wetland Conservation grant to buy the Mutch and Jacobs properties, plus another large lot in the same area. A deal looked possible, according to both sides.

Then a new hurdle arose regarding the river bottom itself. Who owns it?

Surveyor Jerry Anderson, who represents the landowners, said previous court cases make it clear: "The water belongs to the state, but the land underneath (belongs) to the owner." By his reckoning, the two parcels add up to roughly 83 acres.

The Nature Conservancy isn't sure. It wants the issue cleared up to determine how much acreage really exists, said Gerry Powers, the group's director of land protection. "We're



CHARLES ATKINS / Anchorage Daily News

turn the normally angler-friendly Anchor River into a corn fishery. More fishermen would likely cause more habitat damage on the grassy banks stream, he said.

The closure would also block access to the river mouth key fishing area. Many anglers start fishing at low tide, walk steadily upstream and follow the fish as the water rises. Caught at low tides, they could reach the river mouth with trespassing.

He understands the anglers' frustration, Whitmore said. Rowdy teens and adults party on the land every Memorial Day, and even law-abiding fishermen trespass regularly. Nevertheless, he added, "it'd be an absolute catastrophe to have it developed."

Even if the two sides can agree on a price, a potential

land they own. It's just a question of who owns the river bed," he said.

Powers said he thinks a deal is still possible. "The public values are there and the resources are there that deserve public protection, so we're continuing to be interested," he said. All that remains is to agree on a price. "That's the million-dollar question," he said.

The sellers are broadening the market, Anderson said. "If (the state) isn't going to put the money up, they're going to sell it somebody else."

The land is too wet for homes or cabins, Anderson said, but people will buy the five-acre lots if only to have a place to park their recreational vehicles.

Local fishermen would hate to see no-trespassing signs appear on the lower river, said Whitmore, who has fished there 30 years. The new subdivision could close off about a mile of riverbank.

"If you lose access to that portion of river, it means you compress those 1,000 fishermen into one-third less space," he said. "The people will still come, but they'll have much less space to fish," which could

Murkowski, who has voiced philosophical objection to the government's buying private land, would have to approve the use of state or federal funds. Last month, he killed one such land deal on Afognak Island while approving another for ski trail land near Homer.

Powers, of The Nature Conservancy, said he doubts the governor would veto a deal. "The state has been very supportive of this acquisition, as has community, because of the high value of the resources," he said. "I'd be surprised if Gov. Murkowski did not support this project."

Daily News reporter Joel Gay can be reached at jgay@adn.com or at 257-4310.

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Sec. 38.05.127. Access to navigable or public water.

(a) Before the sale, lease, grant, or other disposal of any interest in state land adjacent to a body of water or waterway, the commissioner shall,

(1) determine if the body of water or waterway is navigable water, public water, or neither;

(2) upon finding that the body of water or waterway is navigable or public water, provide for the specific easements or rights-of-way necessary to ensure free access to and along the body of water, unless the commissioner finds that regulating or limiting access is necessary for other beneficial uses or public purposes.

(b) The department shall adopt regulations implementing this section.

(c) Nothing in this section affects valid existing rights or limits in any way the constitutional right of the public to use and have free access to the navigable or public waters of the state.

(d) Upon application by a municipality or an affected owner of land, the department may vacate, release, modify, or relocate an easement and right-of-way for public access to or along navigable or public waters reserved by the department in a patent issued under AS 29.65 or former AS 29.18, if the commissioner determines the action is consistent with the public interest.

(e) The establishment of easements or rights-of-way for oil and gas, gas only, and mineral leases under (a) of this section need not be made until the leases are ready to be developed.

(f) Rights-of-way or easements to waterways established under (a)(2) of this section shall be established approximately once each mile unless the commissioner makes a written finding that regulating or limiting access is necessary for other beneficial uses or public purposes.

(g) The commissioner may exchange land under AS 38.50 to create access to public water of the state.



Representative Les Gara  
State Capital  
Juneau, AK 99801

Re: HB: 37

Dear Representative Gara:

I'm pleased to write to you in support of H.B. 37. Trout Unlimited's 158,000 members are dedicated to conserving, protecting and restoring North America's trout and salmon fisheries and their watersheds; your legislation helps achieve these goals.

Trout Unlimited is encouraged by the process to be established in HR37 whereby the State will work to not only preserve but expand public access to our fishery resources through the acquisition of private lands. Alaska is blessed with a wealth of public land, providing residents and visitors unequaled access to its lakes rivers and streams. This legislation will make a good situation even better through the use of land trades, access easements, and outright purchase of key land parcels.

Thank you Representative Gara, for your foresight and strong support for sportfishing and Alaska's sportfishing community.

Sincerely,

Tim Bristol/Director  
Trout Unlimited Alaska Program 12/12/05

419 Sixth Street, Suite 200  
Juneau, AK 99801  
907-321-3291  
Tbristol@tu.org

ALASKA

/ Frank H Markowski, Governor

**Cooper Landing Fish & Game  
Advisory Committee**

Bill Stockwell, Chair  
PO Box 721  
Cooper Landing, AK 99572-0721  
Phone: 535-1540

December 12, 2005

Senator Tom Wagoner  
Chairman, Senate Resources Committee 145  
Main Street Loop, Suite 226 Kenai, AK  
99611


SUBJECT: HB 37 State Land Trades/Purchases With Willing  
Landowners To Regain Fishing Stream Access

Senator Wagoner,

At our November 9, 2005 Meeting, the Cooper Landing Fish and Game Advisory Committee voted to SUPPORT House Bill 37 which has passed the House. We have written to our Senator Gary Stevens requesting his support and now ask for your support as Chairman of the Senate Resources Committee.

As a fish and game advisory committee, we support ample access to all our fish and wildlife resources. Any loss of access is a loss of public recreational opportunity, an economy loss to tourism, and an unnecessary loss of use of our common use resources. Loss of bank access along fishing streams such as the Anchor River and the Cooper River Dip Net fishery have already become a problem and access to the Mat Valley streams may soon be the next issue.

Thank you very much for your careful consideration of this issue. Please support this issue when it comes before your Committee. When access is lost, it is gone forever.

  
Bill Stockwell, Chair

cc: Senator Gary Stevens  
Representative Les Gara  
Sherry Wright, ADF&G Boards Support

Sincerely,



**KENAI RIVER SPORTFISHING  
ASSOCIATION**

Representative Les Gara  
State Capitol  
Juneau, AK 99801

April 20, 2005

Re: HB37

Dear Representative Gara:

The Kenai River Sportfishing Association (KRSA) supports the legislative objective of House Bill 37, an act relating to voluntary land trades and purchases to enhance public access to fishing streams.

Alaska is home to some of the best sportfishing, personal use and subsistence opportunities in the world, and HB37 is an important piece of legislation that provides ADF&G and ADNR a mechanism to ensure broad public access to these important public resources. HB37 places into statute a process that mandates the Commissioner of ADF&G list land along fishing waterways where access is impeded by private land ownership and the Commissioner of ADNR responsible for proceeding to acquire public access across those lands.

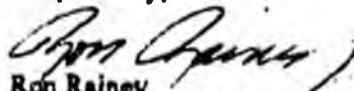
KRSA is a non-profit 501 (c) 3 conservation organization dedicated to ensuring the sustainability of the greatest sportfishing river in the world – the Kenai. Our goals are to conserve and rehabilitate fisheries habitat, promote predictable and meaningful sportfishing opportunity, encourage and foster fisheries research and provide public aquatic education. Over the past ten years we have raised and invested over \$5 million towards these goals.

While on the Kenai River (the primary focus of our organization) there is broad public access to its fishery resources, KRSA has been concerned with the privatization of public lands along other waterways in our state which reduces or eliminates public access to some of our prized sport fishing rivers and streams. On the Kenai Peninsula, we have public access concerns on the neighboring rivers of the Kenai, specifically the Anchor, Deep Creek and Kaslof. If public access is denied or severely restricted on these neighboring rivers, it will only serve to place more pressures on the Kenai itself, which is already the state's most popular sport and personal use fishery.

KRSA supports the public access mechanisms in place in the bill, such as using public easements and land trades as well as outright purchases of the land with voluntary private land owners, and we are also very encouraged that the right of eminent domain may not be exercised to acquire land or interest in land. The initial nominations, which include the Anchor and Deep Creek, could have a significant positive impact on public access to fishery resources in on the Kenai Peninsula as well as other areas of the state.

We appreciate your efforts and those of your colleagues in regards to HB37.

Respectfully,

  
Ron Rainey  
Board President

*Dedicated to preserving the greatest sportfishing river in the world, the Kenai.*

PO Box 1228 • 224 Kenai Ave., Suite 102 • Soldotna, Alaska 99669

Phone: (907) 262-8588 • Fax: (907) 262-8582 • [www.kenairiversportfishing.com](http://www.kenairiversportfishing.com) • E-mail: [info@kenairiversportfishing.com](mailto:info@kenairiversportfishing.com)



# ALASKA FLYFISHERS



Winners of the 1994 McKenzie Cup

March 9, 2005

Dear Representative Gara:

Based on our collective individual and organizational experience, the Alaska Fly Fishers strongly support the objective of House Bill 37.

The Alaska Fly Fishers (AFF) was founded in 1973 at Anchorage with the objectives of "to preserve the sport of fly fishing, advance the principles of fair chase and fair catch, educate members and the public in the necessity of preserving our outdoor heritage, promote the ethical utilization of the resources of our woods and waters and to organize and unite the fly fishers of Alaska for mutual community benefit." AFF is one of the largest sport fishing organizations in Alaska. I feel we have consistently taken actions which support those objectives.

For nearly as long as AFF has existed, we have provided public education (at low or no cost), participated in conservations projects, and participated in organizations which contribute to Alaska's natural resources. Our public education includes annual seminars on fly fishing, fly tying, and donations of books to the public libraries. Conservation projects include an annual Kenai River Cleanup (for 11 consecutive years), bank stabilization of Campbell Creek, and bank stabilization at Jim's Landing on the Kenai River. The organizations our members have participated in include Fish & Game Advisory Committees and Regional Subsistence Advisory Councils.

An important element of maintaining our habitat and resources is public involvement and support. In order to do this, the public must a vested interest. If they are denied access to these resources, we can't expect this broad support.

The AFF concludes that the objectives of HB 37 are mutually supportive of the objectives of AFF.

Sincerely,

  
Bob Fairchild  
President

**Cindy Smith**

---

**From:** Phil Cutler [filcut@ak.net]  
**Sent:** Friday, March 18, 2005 9:40 PM  
**To:** Cindy Smith  
**Cc:** Jeff Parker  
**Subject:** HB 37 GARA

## **Alaska Sportfishing Association**

**P. O. Box 243106 Anchorage, AK 99524**

**Representative Les Gara  
State Capitol  
Juneau, AK 99801**

**Re: HB37**

**Dear Representative Gara,**

**I have presented HB37 at the latest Board of Directors meeting and the latest public membership meeting of the Alaska Sportfishing Association. After thorough discussion at both venues, I am pleased to relate that we enthusiastically support this legislation.**

**The Alaska Sportfishing Association has prided itself in being an organization that works to promote access to areas where sport fishing can be done in concert with sustained yield of the fishery and proper environmental safeguards. One of our longstanding concerns has been the privatization of public lands which in turn reduces or eliminates public access to some of our prized sport fishing rivers and streams.**

**HB37 places into statute a process that mandates that the Commissioner of Fish and Game nominate privately owned lands that might be returned to public ownership. It also makes the Commissioner of Natural Resources responsible to effecting the acquisition of the lands nominated.**

**Much of our discussions were centered on the methods SB37 promotes to acquire the land. Our fiscally conservative members were pleased that the bill endorsed using public easements and land trades as well as outright purchase of the land. The members were excited that your initial nominations could have a significant positive impact on sport fishing access in South-central and Interior Alaska.**

**We appreciate your efforts in sponsoring HB37.**

**Phil Cutler, President**

3/20/2005

Ian Fisk

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**From:** John Barry [pillarbay@acsalaska.net]  
**Sent:** Tuesday, April 04, 2006 6:15 PM  
**To:** Ian Fisk  
**Cc:** AKWAPSC@aol.com

Senate Resources Chairman Thomas Wagoner  
April 4, 2006

Alaska State Senate  
State Capitol Building  
Juneau, AK 99801-1182

Dear Chairman Wagoner,

My name is John Barry and I own and operate the fishing vessel Pillar Bay. I live in Sitka and seine in Southeast. I have also been on the SEAS board for the last six years. I am writing this letter in support of HB218. I have fished cost recovery for NSRAA in the past, and was part of the group of Hidden Falls cost recovery boats in 2005. I hope to perform cost recovery for NSRAA in the future, and I would never support anything I believed detrimental to NSRAA. The success of NSRAA is crucial to any profitable seine operation. I do not know if the blueprint in this bill will ever fit most hatchery areas, but I do believe it provides an additional tool that may in the future fit at Hidden Falls. I do not believe there is any intent to force anything on any hatchery, and I believe we must continue to fund our hatcheries for maximum sustainable yield. I see this bill as nothing more than an additional tool that hatcheries may or may not choose to use to fund their operations.

Respectfully,

John Barry



## Cordova District Fishermen United

P.O. Box 939  
Cordova, Alaska 99574  
(907) 424-3447 FAX (907) 424-3430

February 22, 2006

Representative Bill Thomas  
State Capitol, Room 428  
Juneau, Alaska 99801-1182

RE: Support HB 218 "An Act relating to cost recovery fisheries for private nonprofit hatchery facilities"

Dear Representative Thomas,

Cordova District Fishermen United supports passage of House Bill 218 relating to cost recovery fisheries for private nonprofit hatchery facilities.

CDFU supports the overall concept and believes it will assist with reducing the direct sale of salmon by hatcheries. Additionally, HB 218 will allow the percentage of cost recovery to be negotiated with hatcheries.

Please do not hesitate to contact me should you have any questions regarding CDFU's support of HB 218.

Sincerely,

Diane Platt  
Executive Director

Cc: Representative Jay Ramras  
Representative Ralph Samuals



Senate Resources Chairman Thomas Wagoner  
Alaska State Senate  
State Capitol Building  
Juneau, AK 99801-1182

April 3, 2006

Dear Chairman Wagoner

SEAS(Southeast Alaska Seiners Association) is a group of small boat commercial fishermen. We believe that HB218 is an important piece of legislation that needs to move forward as soon as possible.

Traditional cost recovery has been one of the few available options to recover expenses and pay for hatchery operations. **The fishing community has been working hard for years to come up with a different approach.** *Indeed HB218 is very similar to the legislation passed by this body in 2004 with respect to cost recovery.* The difference with that piece of legislation is **in this case only the users or "harvesters" who catch the fish actually pay the assessment.** 2004's Senate legislation would have mandated all users within similar geographic districts, which would have meant that fishermen would be paying for fish that others were catching and they would also be paying hatchery taxes on wild-stock salmon.

HB218 has a zero fiscal note. As stated in the bill, it is the intent to have the fishermen pay any additional costs the program may entail, such as revenue collection.

It is also important to note that this bill is permissive, allowing the hatchery operators to decide. VFDA(Valdez), AKI(Juneau), CIAA(Kenai), KRAA(Kodiak) DIPAC(Juneau), SSRAA(Ketchikan) and PWSAC(Cordova) have all discussed and opted to **not oppose** HB218. *If this was bad hatchery policy, would there not be rampant opposition rather than the small, local opposition that we are experiencing from NSRAA?*

But we would especially encourage you to recognize that fishermen broadly support this as evidenced by support from **Kake Seiners Association, Petersburg Vessel Owners Association, Cordova District Fishermen United and the United Fishermen of Alaska.**

Respectfully yours,

Bob Thorstenson, Jr., Executive Director, SEAS

AMENDMENT

OFFERED BY:  
WAGONER

OFFERED IN THE SENATE

TO: CSHB 380(FIN)(title am)

- 1 Page 2, line 28:  
2 Delete "and"  
3 Insert new paragraphs to read:  
4 "(3) enter into agreements with the federal government for controlling  
5 disease among animals and match federal payments for animals destroyed under those  
6 agreements from any appropriation available for this purpose;  
7 (4) pay an owner of an animal destroyed under this section an amount  
8 from any appropriation available for this purpose; and"  
9  
10 Renumber the following paragraph accordingly.  
11  
12 Page 7, line 23, following "03.45.060":  
13 Insert ", 03.45.070, 03.45.080"

AMENDMENT

OFFERED IN THE SENATE  
TO: CSHB 37(FIN) am

OFFERED BY:  
ELTON

- 1 Page 3, line 13, following "two":
- 2 Insert "and not more than a total of five"

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR WAGONER

TO: CSHB 37(FIN) am

1 Page 3, following line 9:

2 Insert a new subsection to read:

3 "(c) The commissioner may only acquire public access by purchase under (b)  
4 of this section after the commissioner has made a good faith effort to negotiate the  
5 lease of a public access easement across that land."

6

7 Reletter the following subsections accordingly.

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR WAGONER

TO: CSHB 37(FIN) am

1 Page 3, following line 17:

2 Insert a new subsection to read:

3 "(d) The commissioner or the commissioner of fish and game may close or  
4 otherwise restrict public access acquired under this section if necessary to protect  
5 habitat along a fishing waterway."  
6

7 Reletter the following subsection accordingly.

Don B.

AMENDMENT

OFFERED IN THE SENATE

TO: HB37, version /X.A

Page 3, following line 17:

Insert a new subsection to read:

**“The Commissioner of the Department of Natural Resources and the  
Commissioner of the Alaska Department of Fish and Game have the  
authority to close public access to such land in order to protect habitat along  
rivers, lakes, and streams.”**

# ALASKA STATE LEGISLATURE



Official Business

## SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton


Senator Fred Dyson

Senator Bert Stedman

Senator Albert Kookesh

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DATE: April 4, 2006  
TO: Don Bullock, Legal  
FROM: Mary Jackson, Senate Resources Committee Staff  
RE: HB 37 Amendments



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Please provide two separate amendments, sponsored by Sen. Wagoner, that accomplish:

1. requiring efforts at obtaining property through easements prior to any outright purchase for access, and
2. verbiage allowing the commissioners the authority to close access to lands acquired under this act if needed to protect habitat (see attached).

The Senate Resources Committee will hear this bill tomorrow at 3:30pm, so I would appreciate your having it as soon as possible tomorrow.

Thank you for your time and attention.




# Alaska State Legislature

Official Business, State Capitol, Juneau, Alaska, 99801

## MEMORANDUM

To: Senator Tom Wagoner, Chair Senate Resources Committee

From: Johnny Ellis, Senate Minority Leader 

Date: March 29, 2006

Re: HB 37

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HB 37 Public Access to Fishing Streams, sponsored by Representative Gara, is currently in front of the Senate Resources Committee. I realize that the Governor's oil tax proposal is taking up most of your time in Senate Resources, and I appreciate all the time you are spending on that important issue. I hope that once the issues surrounding PPT are resolved, you will give due consideration to HB 37. This bill would ensure that Alaskans have access to valuable fishing streams around the state.

I understand that the committee has heard HB 37 once, and that you may have concerns about the bill. I hope we can all work together to find a compromise and that HB 37 will move forward.

Thank you.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB037CS(FIN)am-DNR-Title-04-  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if Correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title: Public Access to Fishing Streams RDU: Resource Development  
 Component: Title Acquisition & Defense  
 Sponsor: Rep. Gara  
 Requester: (S) RES Component No.: 2459

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	40.2	40.2	40.2	40.2	40.2	40.2
Travel	2.0	2.0	2.0	2.0	2.0	2.0
Contractual	2.0	2.0	2.0	2.0	2.0	2.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	45.2	45.2	45.2	45.2	45.2	45.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>

Estimate of any current year (FY2006) cost: 00  
 Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 This bill requires DNR, working with the Alaska Department of Fish and Game (ADF&G), to identify private lands that the state should acquire to provide public access to and along popular fishing streams, and then directs DNR to pursue acquisition through purchase of easements, land exchanges, and or fee simple purchase.  
  
 Section 2 of the bill requires ADF&G to identify undeveloped land along popular fishing streams for possible acquisition. The bill identifies three areas where this process will look at first, but envisions an ongoing, statewide process. ADF&G then submits the list of parcels to DNR to acquire the land. This fiscal note does not include the actual cost to negotiate and appraise individual acquisitions, and does not include funding to pay the purchase price for acquisitions.

Prepared by: Dick Mylius, Acting Director Phone 269-8625  
 Division: Mining, Land & Water Date/Time 4/3/2006  
 Approved by: Mike Menge, Commissioner Date 4/3/2006  
 Agency: Natural Resources

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB 37 (FIN) am  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: An act relating to public access RDU: Sport Fisheries  
to fishing streams Component: Sport Fisheries  
 Sponsor: Representative Gara  
 Requester: Senate Resources Committee Component No.: 464

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill requires the Alaska Department of Fish and Game (ADF&G) to annually compile a list of land along fishing waterways where access to the waterways is impeded by private land ownership. In compiling this list, ADF&G is required to take public input and consider a number of conditions outlined in this bill. Once completed, ADF&G will submit this list to the Commissioner of the Department of Natural Resources for consideration. ADF&G is able to comply with the provisions in this legislation without additional funding and/or staff.

Prepared by: Sarah Gilbertson, Legislative Liaison  
 Division: Commissioner's Office  
 Approved by: Commissioner McKie Campbell  
 Agency: Alaska Department of Fish & Game

Phone: 465-6137  
 Date/Time: 02/06/06 12:35 p.m.  
 Date: 2/6/2006

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB037CS(FIN)am-DNR-Title-04  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
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 Requester: (S) RES Component No.: 2459

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<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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<b>TOTAL</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>	<b>45.2</b>

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

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

This bill requires DNR, working with the Alaska Department of Fish and Game (ADF&G), to identify private lands that the state should acquire to provide public access to and along popular fishing streams, and then directs DNR to pursue acquisition through purchase of easements, land exchanges and or fee simple purchase.

Section 2 of the bill requires ADF&G to identify undeveloped land along popular fishing streams for possible acquisition. The bill identifies three areas where this process will look at first, but envisions an ongoing, statewide process. ADF&G then submits the list of parcels to DNR to acquire the land. This fiscal note does not include the actual cost to negotiate and appraise individual acquisitions, and does not include funding to pay the purchase price for acquisitions.

Prepared by: Dick Mylius, Acting Director Phone: 269-8625  
 Division: Mining, Land & Water Date/Time: 4/3/2006  
 Approved by: Mike Mange, Commissioner Date: 4/3/2006  
 Agency: Natural Resources

## FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

BILL NO. HB037CS(FIN)am-DNR-Title-04-

### ANALYSIS CONTINUATION

This fiscal note assumes that ADF&G will provide DNR with a list of parcels, maps of the parcels, names and addresses of property owners, and other information about the parcels. ADF&G will submit a separate fiscal note for these costs.

Section 3 of the bill directs DNR to acquire the lands identified by ADF&G. This fiscal note only includes DNR's costs to conduct initial land title work, field inspections of parcels to be acquired, and preliminary discussions with the owners of parcels that the state desires to acquire.

After these preliminary discussions, DNR would then request appropriations from the legislature to fund work on each parcel or group of parcels, including costs for negotiation, appraisals, surveys, complete land title reviews, and purchase of the land. If the specific acquisitions are not funded, DNR would not be able to pursue the acquisitions further.

DNR's initial costs that are included in this Fiscal Note are:

#### PERSONAL SERVICES COST - \$40,200

Natural Resource Specialist (NRS) III and Land Appraiser II (range 18s) - total 2 months @ \$6,000/month = \$12,000 - to discuss acquisitions with property owners and estimate costs associated with individual parcel acquisitions.

Natural Resource Specialist (NRS) I (range 14) - 6 months @ \$4,700/month = \$28,200 - to conduct initial land title, preliminary valuation, and other research for all parcels.

TRAVEL, CONTRACTUAL, SUPPLIES - total \$5,000 - includes travel to sites (initial areas are all road accessible), research of municipal title records, office supplies, etc.

#### LONG TERM COSTS ASSOCIATED WITH ACTUAL ACQUISITIONS - Not included in Fiscal Note

This fiscal note does not include the cost associated with negotiating the land purchase or exchanges, land appraisals, preparing and recording title documents, any necessary survey costs, and other related costs. DNR's experience with recent land acquisitions indicates that one NRS III position can negotiate and coordinate about four acquisitions per year. Some support staff time is also needed for document preparation, record keeping, additional title research, etc. Based on this, the estimated cost for each purchase is \$40,000 (\$25,000 for personal services and \$15,000 for contractual services including appraisal and environmental audit). Land exchanges are significantly more labor intensive; based on recent experience the cost for land exchanges is \$50,000 to \$100,000 per parcel.

Actual acquisition costs will vary by area and size of parcels. DNR estimates that parcels that provide access to Montana and Willow Creeks along the Parks Highway will cost about \$7,500 per acre for 5-10 acre parcels (\$375 - \$750 per parcel). Recent ADF&G purchases of parcels for access along the Anchor River and Deep Creek on the Kenai Peninsula were higher, averaging about \$100,000 per parcel.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB 37 (FIN) am  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
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to fishing streams Component: Sport Fisheries  
 Sponsor: Representative Gara  
 Requester: Senate Resources Committee Component No: 464

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

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Land & Structures						
Grants & Claims						
Miscellaneous						
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<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 G <sup>F</sup>						
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 (FY2006) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill requires the Alaska Department of Fish and Game (ADF&G) to annually compile a list of land along fishing waterways where access to the waterways is impeded by private land ownership. In compiling this list, ADF&G is required to take public input and consider a number of conditions outlined in this bill. Once completed, ADF&G will submit this list to the Commissioner of the Department of Natural Resources for consideration. ADF&G is able to comply with the provisions in this legislation without additional funding and/or staff.

Prepared by: Sarah Gilbertson, Legislative Liaison Phone: 465-6137  
 Division: Commissioner's Office Date/Time: 02/06/06 12:35 p.m.  
 Approved by: Commissioner McKie Campbell Date: 2/6/2006  
 Agency: Alaska Department of Fish & Game