

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

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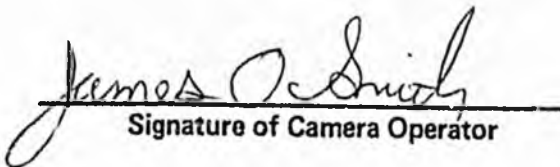
SB 35

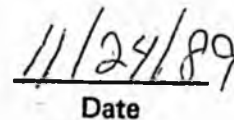
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Senate Committee on Resources

M E M O R A N D U M

March 5, 1985

TO: All Members
Senate Resources Committee

FROM: Staff *ME*
Senate Resources Committee

RE: Committee Substitute for Senate Bill 35 (Resources)
"An Act Creating the Nelchina Public Use Area"

SB 35 would create the Nelchina Public Use Area. The purpose of the Nelchina Public Use Area is:

- 1) Protect and maintain fish and wildlife habitat and populations.
- 2) Perpetuate and enhance public uses of fish and wildlife and their habitat and other public recreation uses.
- 3) Allow other public uses when compatible with the first two uses.

The bill would set aside 2.3 million acres in the southeastern portion of the Mat-Su boundary for these purposes. The area's boundaries approximate areas 2a and 2b on the map in the packet.

Enclosed in this packet is:

- 1) A fiscal note from the Department of Fish and Game
- 2) A fiscal note from the Department of Natural Resources
- 3) A summary by the Alaska Environmental Lobby
- 4) An issue paper by ADF&G on legislative protection of the Nelchina caribou herd
- 5) An excerpt from the draft Susitna Area Plan that describes land use policy in the Talkeetna Mountain Subregion. The map referred to above is included at the end of this section.

A draft committee substitute is being prepared by legal services and will be available at the meeting. The sponsor, DNR, ADF&G, the Alaska Miners Association and the Alaska Environmental Lobby have been involved in the development of this draft. Major agreements have been reached in the development of this draft, but it is expected that additional work will be needed to respond to public testimony. The primary purpose of the March 6th teleconference on this bill will be to receive that testimony.

STATE OF : 1985 LEGISLATIVE SESSION
 FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SSSB 35
 Title: An Act creating the Netchina
 Public Use Area

Sponsor: J. Kertulla & V. Fischer
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: ADF&G
 Program Category Affected: _____

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-					

CAPITAL	-0-					
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REVENUE	-0-					
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-					
FEDERAL FUNDS	-0-					
OTHER	-0-					
TOTAL	-0-					

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

No additional cost will be incurred by the Department as a result of this bill.

Debra Clausen

Prepared By: Debra Clausen Phone: 267-2346
 Division: Habitat Division Date: 3/5/85

Approved by Commissioner: As discussed with Lew Pamplin, Game Director
Chris Peterson Date: 3.5.85

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

1.	POSITION TITLE				RANGE/STEP	BARG. UNIT	PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL		ADDITION		JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1		2	3						
	PERSONAL SERVICES									
5.	Salary									
6.	Benefits									
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01							
10.	Travel		02							
11.	Contractual		03							
12.	Commodities		04							
13.	Equipment		05							
14.	Other									
15.	TOTAL COST									
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
19.		General Funds 1004								
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
	FOR BSM USE ONLY									
	KEY NUMBER _____									

**REQUEST FOR
NEW POSITION**

AGENCY _____
PROGRAM _____
BRU _____
COMPONENT _____

Page _____ of _____
Revised Date _____

FY 86

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSSSB 35(Res)
Title: Nelchina Public Use Area

Sponsor: Kerttula
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Natural Resources
Program Category Affected: NRMEC

BRU, Program or Subprogram(s) Affected:
Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		47.0	47.0	47.0	47.0	47.0
200 TRAVEL		5.0	5.0	2.0	2.0	2.0
300 CONTRACTUAL		15.0	15.0	2.0	2.0	2.0
400 SUPPLIES		.5	.5	.5	.5	.5
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		67.5	67.5	51.5	51.5	51.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		67.5	67.5	51.5	51.5	51.5
FEDERAL FUNDS						
OTHER						
TOTAL		67.5	67.5	51.5	51.5	51.5

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Funds will support one Natural Resource Manager I to conduct planning and management in the Public Use Area. Travel and contractual funding are higher during the first two years to allow for public meetings and distribution of the management plan.

Prepared By: Ned Farquhar Phone: 465-2400
Division: Natural Resources Date: March 5, 1985

Approved by Commissioner: Arthur C. Wamische Date: March 5, 1985
Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

7/1/84



Alaska Environmental Lobby, Inc.

204 N. Franklin Street, Suite 3 Juneau, Alaska 99801

907-586-2345

THE NELCHINA PUBLIC USE AREA: SB35

The Nelchina Public Use Area encompasses 2.3 million acres of primarily state-owned lands on the northeastern slopes of the Talkeetna Mountains. The area supports a variety of wildlife resources and recreational use. Wildlife includes caribou, moose, sheep, brown bear, black bear, wolf and wolverine as well as many species of furbearers, waterfowl, small game and unclassified game. Recreational use of the area includes hunting, fishing, backpacking, climbing, canoeing, whitewater rafting, ORV use, snowmachining, skiing, and panning for gold amongst others.

The Nelchina caribou herd, numbering 25,000, is the largest in Southcentral and due to its proximity to both Anchorage and Fairbanks, has been the most accessible caribou herd in Alaska since before statehood. Once numbering 70,000, the caribou are being impacted by increasing development pressures north of the Glenn Highway which is altering and removing lands from the habitat base and by the Trans-Alaska pipeline which bisects their traditional range. The calving grounds are the "center of habitation" for the herd which covers an area of about 1 million acres and makes up the core of the Nelchina Public Use Area. The herds are most vulnerable when moving to and using these grounds.

The Susitna Area Plan after over 40 public hearings during a 3 year process, has identified the Nelchina Public Use Area and has recommended it for immediate legislative designation. SB35 sponsored by Sen. Jalmar Kerttula would provide for the establishment of the Nelchina Public Use Area, the purpose of which would be to assure that these lands remain in public ownership and that area fish and wildlife populations and habitat as well as associated compatible recreational uses are perpetuated. It would also provide:

- ** DNR to be land managers and to develop a management plan with the concurrence of ADF&G who would manage fish and game resources.
- ** Mineral entry under regulations set up by DNR to achieve the area's purpose. Valid existing mining claims and multiple land use permits would remain valid and continue in full force.
- ** Traditional access for lawful sport and subsistence hunting, fishing and trapping.

The Alaska Environmental Lobby supports the establishment of the Nelchina Public Use Area and SB35 and will be closely monitoring the developments in this legislation.

Prepared by Mark Stasik, staff lobbyist for the AEL, 3/4/85

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • JUNEAU GROUP, SIERRA CLUB • SITKA GROUP, SIERRA CLUB
KNIK GROUP, SIERRA CLUB • DENALI GROUP, SIERRA CLUB • ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY
DENALI CITIZENS' COUNCIL • ALASKA FRIENDS OF THE EARTH • JUNEAU AUDUBON SOCIETY • KACHEMAK BAY CONSERVATION SOCIETY
KENAI PENINSULA AUDUBON SOCIETY • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • ALASKA WILDERNESS GUIDES ASSOCIATION
SITKA CONSERVATION SOCIETY • NORTHERN ALASKA ENVIRONMENTAL CENTER • SOUTHEAST ALASKA CONSERVATION COUNCIL

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LEGISLATIVE PROTECTION OF THE NELCHINA CARIBOU CALVING AREA

Need for Designation

The Nelchina caribou herd is one of southcentral Alaska's most important wildlife resources. It is the largest caribou herd in southcentral Alaska, currently numbering about 25,000 caribou, and is expected to increase somewhat under continued conservative management, provided a habitat base is maintained. Due to its accessibility from Anchorage and Fairbanks, it has been the most intensively recreationally-hunted caribou herd in Alaska since before statehood. Even though hunting is now limited by permit, tremendous demand is expressed each year. More than 12,000 Alaskans applied for 1,900 Nelchina caribou hunting permits in 1984. The herd is also important in meeting the subsistence needs of Copper River Basin residents. Additionally, annual migrations often bring caribou near Nelchina highways where they provide people with otherwise uncommon wildlife viewing opportunities.

The Nelchina caribou range over an area of 20,000 square miles, annually moving to and from their calving and summer range in the Talkeetna Mountains to winter ranges in the Lake Louise Flats, across the Glenn Highway to Chistochina, and often as far east as the Wrangell Mountains near Nabesna. Although different winter ranges may be occupied from one year to the next, the calving grounds have been used every year since studies of the herd began in the 1950's. This consistent use is indicative of the importance of the calving area to

the herd. The calving grounds are the "center of habitation" for the herd, an area that meets the special needs of caribou after the long winter, where pregnant cows can find suitable habitat to give birth to and nurture their newborn calves. Over the great expanses of range covered annually by caribou, they are most vulnerable when moving to and using their calving grounds.

The Nelchina caribou will be affected by increasing development in their range. The Trans-Alaska oil pipeline has already bisected their range; the long term effects on the herd remains uncertain. The most significant new development on the horizon is the Susitna Hydroelectric project. If built, the impoundments may impede movements to and from the calving area, and disturbance associated with the project may displace caribou from some summer range. In addition, development of Native lands adjacent to the project and great increases in recreational uses in the vicinity of the impoundment are likely. Other actions also have the potential for adverse effects on the caribou: increased settlement, grazing, transportation corridors, and military operations have been proposed in the past. As development and use of the land in the upper Susitna and Copper River Basins increase, the cumulative effects will adversely affect the herd. If the state's goal is to maintain the Nelchina caribou herd, the most effective way to minimize these cumulative impacts with the least constraint on other land uses is to protect the calving ground where caribou are most vulnerable.

Area Proposed

The area proposed for legislative designation is located on the northern and eastern slopes of the Talkeetna Mountains (see enclosed map and legal description, Appendix 3). The area contains approximately one million acres and encompasses the primary calving grounds of the Nelchina caribou herd. The area is largely mountainous with rolling uplands covered by alpine herbaceous and subalpine shrubland vegetation. It is undeveloped except for small placer mining operations and a few cabins used for hunting and trapping. The area has no merchantable timber, no agricultural potential, and little commercial grazing capability, but it has substantial wildlands recreation values. The area supports considerable hunting effort directed at caribou, moose and brown bear, although hunting for moose, bears and sheep is more intense in the peripheral sections (see the Nelchina Public Use Area description, Appendix 1) where populations of these species are larger. In addition to big game hunting, the area receives use by small game hunters, trappers, sport fishermen, backpackers, and winter recreationists.

Options for Designation

The Department of Fish and Game (ADF&G) believes legislative designation of this area is needed to permanently protect its special values. The form of designation is secondary to the considerations of ensuring long-term retention and management provisions protecting the Nelchina caribou population and other fish and wildlife resources and

associated public uses. The Nelchina caribou calving area can be designated separately, or in combination with surrounding lands with significant public use values. Several kinds of designation are possible including a public use area, a critical habitat area, a state game refuge, or some other new form of designation.

1. Calving area only. The central calving area is the most critical and important area requiring designation. The Susitna Area Plan has identified it, as meriting immediate legislative designation as a public use area, while recommending eventual designation for surrounding lands as an addition to the public use area. Preliminary draft legislation (Appendix 4) reflecting tentative agreements reached by the ADF&G and the Department of Natural Resources (ADNR) in the preparation of the Governor's South-central Recreation Action Plan would assign the area to ADNR for control, development and maintenance and would provide for ADF&G concurrence with a management plan to be prepared by ADNR for the area. The ADF&G's statutory/regulatory authority in the area would be limited to its general authorities for management of fish and game resources and public uses of fish and game. The ADF&G would rely on provisions of the management plan and on existing consultation procedures with ADNR to protect habitat and wildlife (especially caribou) from land uses potentially inimical to these resources in the area. If statutory authority for such protection by the ADF&G is desired, critical habitat designation would be appropriate. Other options would be to establish the area as a game refuge or create a new article in Title 16,

Chapter 20 for Fish and Game Public Use Areas containing language similar to that found in AS 16.20.050 and .060 (permitting authority).

2. Calving area plus public use area. The original proposed Nelchina Public Use Area, first considered by the legislature in 1980, contains approximately 2.3 million acres of land with exceptional wildlife and public use values (see enclosed map and description, Appendix 1 and 2). Although the final draft of the Susitna Area Plan recommends immediate legislative designation only for the central calving area of about one million acres (with subsequent designation of the remainder at some future date), the ADNR has indicated that it is not opposed to designation of the entire public use area at this time if that is the legislature's wish. Numerous public comments on the draft Susitna Area Plan have supported immediate designation of the larger area.

The enclosed draft bill can be used for either the central calving area or the larger public use area if the designation is to be as a public use area. If the legislature finds it desirable to accord the entire area special designation but feels it is appropriate to give the ADF&G some statutory authority in determining compatibility of land uses in the central calving area (beyond concurrence in a management plan), critical habitat or refuge designation or a new category of lands as suggested above could be established. One option that could be considered

is to have concurrent designation of the calving area as both part of a larger public use area and as critical habitat. Under this option, the entire area would be managed under the provisions of the public use area and the management plan developed jointly by the ADF&G and ADNR. At the same time, the critical caribou calving habitat could be protected when necessary under its critical habitat status.

The following section describes land use policy within the Talkeetna Mountain Subregion. It is divided into two parts. The first is an overview of resources and their management for the subregion as a whole. The second presents specific statements of management intent, land use designations, prohibited uses, and management guidelines for each of the subregion's three management units. The land use plan's proposals on two issues--the borough's Talkeetna Mountains Special Use District and the proposed Susitna Hydroelectric project--overlap several management units and are therefore presented in the first part of this subregion summary under the section on management summary. Maps showing land ownership in the subregion and boundaries of management units and subunits are presented at the end of the first part.

I. SUBREGION OVERVIEW

A. Background

The boundaries of the Talkeetna Mountains Subregion are the planning area boundaries on the north and east (these coincide with the boundary of the Matanuska-Susitna Borough), a line that approximates the northern edge of the Matanuska River drainage on the south, and on the west, a line that roughly follows the 2,500' contour. These boundaries generally encompass only the upper portions of the mountains. Lower-lying portions of river valleys which extend into the area such as the Talkeetna, Sheep, and Kashwitna are included in the adjacent subregions.

This subregion encompasses roughly 6 million acres, the majority of which is publicly owned. The northern half of the unit is primarily in federal ownership, the southern half is held by the State of Alaska. The state recently received tentative approval for nearly all of the approximately 80 townships (1,840,000 acres) of federal land it had selected in the southern half of the area. There are approximately 206,000 acres of Native selected and interim conveyed lands in the area. Most of these lands are located in the Susitna River - Stephan Lake area and in the East Fork of the Chulitna River drainage. These Native selected lands are very likely to be conveyed. In addition to private land held by Native corporations there are also numerous scattered small parcels held by private individuals. These holdings are generally of two types: state offered open-to-entry sites adjacent to fly-in lakes (primarily used for recreational purposes), and federally patented mining claims located in the Nelchina area, the Clearwater Mountains and other mining areas. See the ownership maps at the end of this section for more information.

Access to the periphery of the subregion is provided by two major highways -- the Glenn on the south, the Parks on the west. The only road access into the subregion is provided by the Denali Highway on the north. This highway traverses mostly alpine country in federal ownership from Paxson to Cantwell. The State Department of Transportation is presently working on improvements to the western end of this highway. A number of trails branch off from these highways and provide a measure of access into the mountains. Other means of access include landing strips, fly-in lakes, and boatable rivers.

Although most of this rugged area does not offer the potential for agriculture, forestry, or settlement found elsewhere in the study area, these limitations are well balanced by the region's rich fish and wildlife, recreational and mineral resources. This area is one of the most heavily used big game hunting areas in the state, offering moose, Dall sheep, bear, and caribou. The majority of the range of the 20,000 animals of the Nelchina caribou herd is located here. The area's many lakes and rivers offer excellent fishing for salmon, lake and rainbow trout, grayling and other species. The subregion offers literally millions of acres of alpine country for hiking, camping, skiing and climbing.

These same alpine areas have a rich and to a large degree unexplored potential for mineral development. Several areas -- Hatcher Pass, Nelchina and Valdez Creek -- are currently active producers of gold and other precious minerals.

The Alaska Power Authority recently applied to the Federal Energy and Regulatory Commission (FERC) for a license to build a major hydroelectric project on the Susitna River. Two dams are proposed for sites at Devil's Canyon and Watana. (More on this proposal below.)

B. Management Summary

The Talkeetna Subregion will be managed as a multiple use area emphasizing the uses that are most important in the area now: recreation, including hunting and fishing, protection of fish and wildlife habitat, and mining. Grazing, private recreational settlement (remote cabins), and personal use timber harvests are also uses appropriate in specific portions of this subregion. The vast majority of this rugged, mountainous area is expected to remain remote and very sparsely developed. Additional road access to the area and concentrated settlement on public lands will be contingent on a demonstrated need for such development in order to facilitate activities such as mining or dam construction.

1. Settlement

State and federal land disposals for private recreational settlement are a very low priority in this subregion. The state will issue permits for remote cabin sites in this subregion under the remote cabin permit program in limited, select sites. Should the proposed Susitna hydropower project be developed, state land will be available for a workcamp or other settlement uses associated with the construction and operation of the dams. Most of these hydro-project related uses, however, are expected to occur on lands presently in Native ownership. If road access into this area is provided as a result of the hydro project native lands are likely to be developed for private recreational purposes. Settlement may be an appropriate use on public lands adjacent to areas developed by the natives although no lands are designated for this purpose at this time. (Demand for private residential and commercial uses that may be associated with the project are discussed further under the section on Susitna hydro.) Residential development of public land also may occur in this unit concurrent with major mineral development. Any settlement in this subregion should be designed to maintain public access and protect fish and wildlife habitat and the area's high scenic quality--particularly where the activities occur within the highway corridors.

2. Agriculture

Grazing is the only agricultural use that is possible in this subregion. Grazing will be limited to an area several hundred thousand acres in size in the southwestern portion of the subregion. This area is relatively close to access and to land that could be used for farm headquarter sites. Management guidelines will be applied to grazing activities to ensure compatibility with wildlife.

3. Forestry

Although most of this unit is above timberline, major drainages (e.g., the Susitna and Talkeetna rivers) have personal use and perhaps commercial timber harvest potential. If major developments such as the Susitna hydro project occur there will undoubtedly be associated demands for structural timbers which could be met from these areas. In general, however, the state will set a higher priority on protecting the scenic, habitat, and recreational values of these forested areas rather than using these areas for commercial uses. Limited personal use harvests will be permitted in some areas.

4. Recreation/Fish and Wildlife

This subregion will be managed to protect its current status as one of the major game harvest areas in the state for moose, caribou and sheep. Streams will be managed to protect their recrea-

tion and commercial fishery values. The area also will be managed to maintain a full range of summer and winter recreation activities, including skiing, mountain climbing, hiking, and snowmobiling. Adequate access for these recreation purposes should be maintained in public ownership. Because the Talkeetnas are a highly scenic but still relatively gentle mountain range, the area is particularly suited for cross country hiking, skiing and snowmobiling. A system of trails running through this subregion should be identified and promoted. The state and borough should also seek funding to build and, if necessary, operate public use cabins along this trail system.

Construction of the Susitna Hydroelectric project also could provide increased opportunities for public recreation, primarily due to improved access. Any plans for recreation improvements in the subregion--for example a trails system--should be coordinated with recreation plans associated with the proposed Hydro project.

The plan recommends that the southeastern portion of the Talkeetna Mountains be legislatively or administratively designated as the "Nelchina Public Use Area" to protect the Nelchina caribou herd. This proposal would allow multiple use of the area, including mining, but would prohibit lands sales except for what might be required for resource development. (See Management Unit 3 for more details.)

5. Minerals

This subregion will remain open to mineral exploration and development and to oil and gas leasing. Mineral development, including necessary roads and workcamps, should be designed to minimize impacts on important wildlife and recreation values in this unit.

6. Access

The road/rail system that would provide access to the Susitna hydroelectric project is the only major access improvement being considered in the area. The Power Authority's proposed access route, described in the FERC license application, would provide access to the Watana Dam site from the Denali Highway via Deadman Creek. The Devils Canyon site would be provided with access via a railroad spur from near Gold Creek (on the existing RR line) and via a road on the north side of the Susitna River from the Watana site. A final decision on the planned access route will be made through the environmental impact statement review process.

7. Stream Corridors

The headwaters of many major streams lie in the Talkeetna Mountains. Management of these corridors will be determined on a case-by-case basis consistent with the management objectives for the more heavily used downstream segments of the rivers. In general, the objectives for the rivers originating in this subregion will be to protect water quality, fish and wildlife habitat, and public access.

8. Susitna Hydroelectric Project

As mentioned, the two proposed Susitna hydroelectric dam sites are located within this subregion. The plan does not address any of the basic issues concerning the direct social, fiscal or environmental impacts of this project. This task is being addressed by the FERC licensing process and by the many state and federal agencies already working on the project. Several of the indirect impacts of the hydro project are, however, within the purview of the plan, and will be addressed here. (Note: Because the issues associated with the hydro project affect virtually the entire subregion, these issues will be discussed here for the whole subregion rather than within each of the three management units.)

... issues addressed by the plan are mitigation lands, land ownership, and recreation and settlement associated with the project. Each are discussed below.

a. Mitigation Lands

Construction of the Susitna Hydroelectric project would have significant effects on terrestrial and aquatic habitats. One proposed method for mitigating the loss of wildlife habitat that would be inundated or disturbed by the hydro project is to designate and manage nearby lands in a way that compensates for this loss. The Alaska Power Authority estimates that roughly 20,000 acres of land would be needed to adequately compensate for the predicted loss of habitat lands.

No compensation lands have been depicted in this agency review draft plan. The Power Authority has prepared a description of the objectives to be met by identifying mitigation lands, criteria for selecting such areas, and lastly, identified a large pool of possible mitigation lands. This information is presented in Appendix 2. The final determination of mitigation strategies and, if appropriate, mitigation lands, will be done after the plan is complete.

b. Land Ownership

Nearly all of the land where the proposed dams, reservoirs, and associated facilities are planned to be located are selected by or interimly conveyed to Cook Inlet Region Inc. and its village corporations. If the hydro project is approved, the state has the option to condemn or buy these lands or trade for lands in other areas. Roughly 40,000 acres of land are at issue, however, the Power Authority estimates as little as 16,000 acres will actually have to be acquired. Final decisions related to land acquisition will be made in light of the plan's designations on land adjacent to the project and on possible trading stock lands.

c. Settlement Associated with the Dam Project

If the project is constructed this would increase development pressures on the portions of the planning area that are already settled and also, due to construction of new access, open new areas to settlement pressures. On the first of these two issues, sufficient private land presently exists to accommodate the predicted level of population growth associated with the project. Regarding possible new settlement areas, no plans can be made until a final decision is made on the location and mode of new access into the area. However, whatever route is ultimately chosen, DNR will follow a settlement policy of "commensurate impact". This means that in locations where the Power Authority is making a special effort (e.g., through road design and siting) to protect some aspect of environmental quality, DNR will not negate this effort through selling land in the particularly sensitive area. On the other hand, portions of the area opened as a result of the project likely will be able to support some land sales (or cabin construction under the remote cabin program) with an acceptable level of environmental impact. Overall, DNR does not intend to sell much land in this area, since it has limited physical capability to support settlement and is generally sensitive to development.

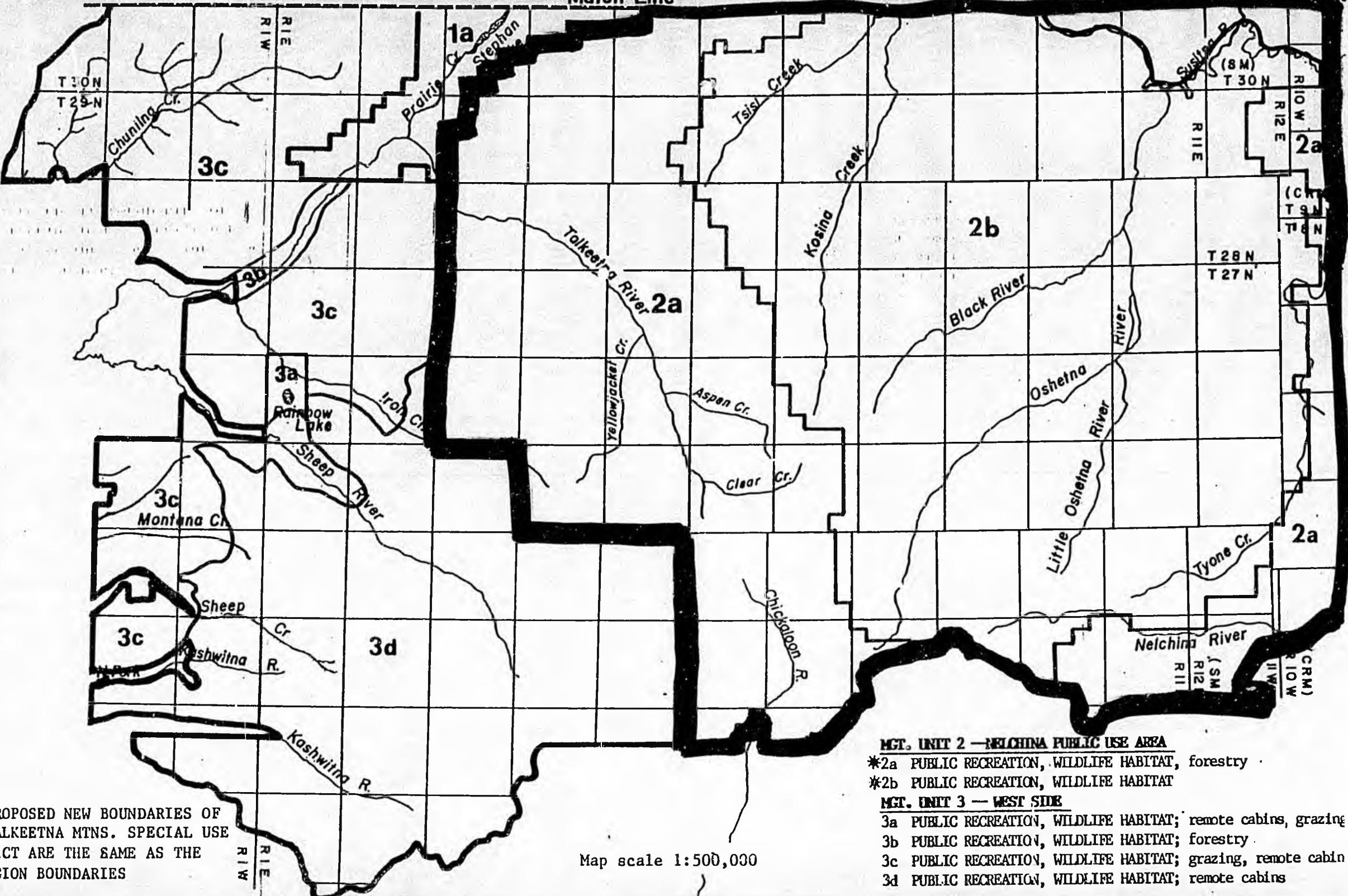
d. Recreation Associated with Dam Project

The area surrounding the project has good potential for various types of new, developed recreation activities. As part of the FERC application the Power Authority and the State Division of Parks and Outdoor Recreation are working together to finalize a plan identifying areas for trails, camping, dispersed recreation, etc.

District

This subregion roughly corresponds to the boundaries of the Matanuska-Susitna Borough's Talkeetna Mountains Special Use District. Under the terms of this ordinance, land within the district can be used for recreation, protection and use of fish and wildlife, mining and grazing. Settlement required to support resource development is permitted but other types of year-round settlement are not allowed. Recreational/seasonal settlement is allowed on a case-by-case basis and usually is restricted to small "wilderness" cabins (<500 sq. feet, no running water, etc.)

The plan generally supports these land use designations and restrictions on settlement. It is recommended, however, that the boundaries of the special use district be modified to better follow the boundaries of the Talkeetna Mountains (see map of this subregion for details). At present the special use district includes several areas that are appropriate for land sales due to road or rail access (e.g., Lake Louise), adequate physical capability for settlement and very high amenities. This proposed change to the special use district boundaries will be brought before the borough assembly as one part of the land management proposals contained in the plan.



- MGT. UNIT 2 — NELCHINA PUBLIC USE AREA**
- *2a PUBLIC RECREATION, WILDLIFE HABITAT, forestry
 - *2b PUBLIC RECREATION, WILDLIFE HABITAT
- MGT. UNIT 3 — WEST SIDE**
- 3a PUBLIC RECREATION, WILDLIFE HABITAT; remote cabins, grazing
 - 3b PUBLIC RECREATION, WILDLIFE HABITAT; forestry
 - 3c PUBLIC RECREATION, WILDLIFE HABITAT; grazing, remote cabin
 - 3d PUBLIC RECREATION, WILDLIFE HABITAT; remote cabins

Map scale 1:500,000

PROPOSED NEW BOUNDARIES OF
 TALKEETNA MTNS. SPECIAL USE
 DISTRICT ARE THE SAME AS THE
 MANAGEMENT BOUNDARIES

AND USE SUMMARY

SUBREGION TALKEETNA MTS.

MANAGEMENT UNIT _____

MGMT. UNIT/ SUBUNIT	ANALYSIS UNIT NUMBERS	LAND OWNERSHIP (GENERALIZED)	LAND USE DESIGNATIONS		PROHIBITED SURFACE USE(S) ¹	MINERALS		COMM
			PRIMARY USE(S)	SECONDARY USE(S)		MGMT. OF LOCATABLE MINERALS	MGMT. OF LEASEABLE MINERALS	
Nelchina Public Use Area except caribou calving grounds	This information will be added in the final draft	State/State Selected	Wildlife Habitat Public Recreation	Forestry	Grazing Land Disposals	Open	Available for leasing	Proposed legislat adminis designat the Nelc Public U
Caribou Calving grounds		State	Wildlife Habitat Public Recreation		Grazing Land Disposals	Open	Available for leasing	

Other uses such as material sales, land leases, remote cabin leases, etc., that are not specifically prohibited may be allowed. Such uses will be allowed if consistent with the management intent and management guidelines of this unit, and with the relevant management guidelines in chapter 2.

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
JACK COGHILL
DICK ELIASON
VIC FISCHER
RICK HALFORD
FRED ZHAROFF



POUCH V
JUNEAU, ALASKA. 99811
(907) 465-4907

Senate Committee on Resources

M E M O R A N D U M

March 27, 1985

TO: Senate Resource Committee Members
FROM: Senate Resource Committee Staff *MEL*
RE: CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 35 (RESOURCES)
"An Act creating the Nelchina Public Use Area"

With two exceptions, the proposed CS for SSSB 35 is the same as the proposed committee substitute that the Resources Committee had before it when it first considered SB 35.

These two changes were suggested at the previous committee meeting. They are:

Page 3, line 12, a reference to AS 41.21.876(1) - (4), makes clear that access shall be compatible to the purposes of the Nelchina Public Use Area.

Page 14, line 17, A new section is added to make it clear that nothing in this legislation will restrict the development of the Susitna Hydroelectric project.

This bill, in its present form, is supported by the Departments of Fish and Game, Natural Resources, and Transportation. The Resources Committee has received numerous letters and public opinion messages which have been strongly in favor of the bill.

Frank
Analyze
any problems here
①

from:

Tom Hawkins
Director/L&WM

ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LAND & WATER MANAGEMENT
POUCH 7-005
ANCHORAGE, ALASKA 99510

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES

State of Alaska

OFFICE OF THE COMMISSIONER

TO: Don W. Collinsworth, Commissioner
Department of Fish and Game

DATE: July 10, 1985

FILE NO:

TELEPHONE NO: 561-2020

FROM: Esther Kunnicke
Commissioner

SUBJECT: Nelchina Public Use Area

This is a response to your memo of 5/20 regarding the Nelchina public use area. I wholeheartedly agree that it is sensible to reach mutual agreement on the intended management of this area. This is particularly true because, once again, we have a bill which only reveals its true intent after careful scrutiny.

Your memo raised questions regarding the bill's reference to the Susitna Area plan and to the compatibility of mining in the area. Our understanding of the answers of these questions is outlined below.

1. Relationship of the Bill to the Susitna Area Plan (page 1 line 23)

We concur that the bill is referring to the 1985 final version of the Susitna Plan. It is our understanding that this reference establishes the plan's policies for this area as consistent with the intent of the legislation. A possible issue, suggested by your memo, is whether the legislation references only the plan's primary and secondary land use designations (Public Recreation, Wildlife Habitat - primary; Forestry - secondary) and not the plan's management intent statement or management guidelines. We believe the legislation refers to all the plan's policies including the statement of management intent. This is important because the management intent statement, a portion of which is reprinted below, is explicit in including mining as an allowed use in the area.

"ADNR's overall management intent for this area is that it be retained in public ownership (disposals are prohibited) and be managed for three major purposes: to protect fish and wildlife resources, to provide opportunities for recreation, including hunting, fishing and other uses of fish and wildlife resources and to permit exploration and development of mineral resources." (From page 433 of the xeroxed version of the final plan.)

In addition to our mutual adoption of the Susitna Plan, several other points support the contention that the bill endorses the full package of plan policy for this area and therefore, establishes mining as a major intended use. The first is based on the structure of plan policy. As is explained in the beginning of the plan's third chapter, primary and secondary uses are only intended to provide a quick picture of planned uses within an area—the statement of management intent provides the complete and definitive explanation of plan policy. Additionally, primary and secondary uses almost always refer only to surface resources. The Nelchina area is open to mining in the plan and therefore, as is also explained in the beginning of chapter 3, mining will be encouraged and accommodated in the area consistent with state law and plan policy.

A second, more legalistic support for this position is provided by a careful look at the bill. Line 23 states that the fourth purpose of the bill is to "perpetuate and enhance additional public uses described in the Susitna area plan." This statement of purpose follows three other statements dealing with wildlife habitat and public recreation. Because this line says "additional public uses" it is clearly referring to the third major purpose set out in the plan, namely exploration and development of mineral resources.

Following the reasoning given in the above paragraphs, it is also our opinion that the plan's management guidelines will be in effect in the area until a management plan is done. These guidelines are particularly stringent regarding the regulation of mineral exploration and development. Our department anticipates relying on these guidelines to make resource development and resource protection activities compatible until such time as funding is provided to prepare a detailed management plan for this area.

2. Compatibility of Mineral Development (page 2, line 19)

The concern on this issue regards the significance of the House subcommittee change in the language of the final bill. (The Senate subcommittee version reads "exploration, development and extraction of subsurface resources shall be allowed as long as they occur in a manner that is compatible...." The final language in the House substitute reads "...shall be allowed in a manner that is compatible....") Our opinion of the significance of this change is different from what you propose in your memo. As is made clear in previous sections of this letter, the bill does intend that mining be one of the major land uses permitted in the area. It is our view that the above change clarifies this point by implying that mining is a permitted activity, but must occur in a way that is compatible with the area's other major land use purposes. This approach is what is set out by the package of policies included in the final Susitna plan.

Please contact me or Tom Hawkins in our Anchorage office if you have any concerns regarding our understanding of these issues. As I stated earlier, I believe it is very important that our agencies rapidly reach agreement on the land use policy for this valuable area.

cc: Tom Hawkins

MEMORANDUM

ECW → RT
cc Tom Hawkins
State of Alaska
cc MV

TO: Esther Wunnicke
Commissioner
Department of Natural Resources

DATE: May 20, 1985

FILE NO:

TELEPHONE NO: 465-4100

FROM: Don W. Collinsworth *A. Penney*
Commissioner
Department of Fish and Game

SUBJECT: Nelchina Public
Use Area
HCS for CSSSSB35

In order to avoid any possible misunderstanding later on, I wish to take this opportunity to discuss two issues that came up during committee hearing on this bill.

The House Resources Committee drafted a committee substitute for the bill. They made two changes that we were concerned about:

1. On page 1, line 23, there is a reference to the Susitna Area Plan. It is our understanding that this more specifically refers to the Susitna Area Plan of 1985. It is also our understanding that the Susitna Area Plan will be the basis for the Nelchina Public Use Area Management Plan and that this refers to the primary and secondary uses designated in the plan.
2. On page 2, line 19, the Senate committee substitute read "shall be allowed as long as they occur in a manner that is compatible...", but the House committee substitute reads "shall be allowed in a manner that is compatible...." It is our understanding that this change was made by the drafter for readability and has no substantive impact on intent; the Commissioner still has discretion not to issue a permit if the activity is not compatible. This point was clarified during testimony by Dave Stancliff, the committee staff person for the bill. We asked a clarifying question during our testimony and received the same answer from the committee. The hearing record should support this position.

We are looking forward to working with DNR on the management plan for the area.

cc: Senator Kerttula

Land & water mgmt.

MAY 24 1985

Director's Office

DEPARTMENT OF
NATURAL RESOURCES

MAY 22 1985

COMMISSIONER'S OFFICE
JUNEAU

Amendments Proposed by ADF&G and DNR to
the Working Draft of SB 35, "An Act Creating
the Nelchina Public Use Area."
March 3, 1985

Amendment #1

Page 1, Line 17, Section 41.21.876(2) should read:

(2) perpetuate and enhance public recreation and use[s] of fish and wildlife and their habitat including fishing, hunting, trapping, viewing, and photography [, and general public recreation] in a high quality environment;

Amendment #2

Page 1, Line 27; Section 41.21.878(a) should read:

. . . and may revise a management plan for the Nelchina Public Use area. [with the concurrence of the Department of Fish and Game.] In the portion of the management plan affecting the core caribou calving area, as identified in Section 41.21.882 (a), the Department of Natural Resources shall obtain concurrence of the Department of Fish and Game in development of the management plan. On other lands within the public use area, as identified in Section 41.21.882 (b), the Department of Natural Resources shall consult with the Department of Fish and Game in development of the management plan.

Amendment #3

Page 2, Line 4; Section 41.21.878(c) should read:

The Nelchina Public Use Area shall be open to mineral entry, [under regulations] and the Department of Natural Resources may adopt ~~similar~~ regulations to achieve the purposes specified in AS 41.21.876. Each valid existing mineral lease and miscellaneous land use permit shall remain valid and continue in full force and effect according to its terms.

Exploration, development, and extraction of subsurface resources shall be allowed, as long as they occur in a manner that is compatible with the purposes specified in Section 41.21.876, (1) and (2).

*Mineral Entry,
(compatibility, subsurface
just in
core area?)*

Amendment #4

Page 2, Line 14; Section 41.21.880(a) should read:

. . . in (d) of this section, the commissioner of natural resources shall [may] prohibit or restrict [by regulation] . . .

Amendment #5

Page 2, Line 17; Section 41.21.880(b) should read:

(b) Discharge of a firearm is permitted on state-owned land and water described in AS 41.21.882[.], but may be limited for reasons of public safety.

Amendment #6

Page 2, Line 21; Section 41.21. 90(c) should read:

. . . development of fish and wildlife habitat [under AS 16.05.092] within an area described in AS 41.21.882. [(d) of this section].

Amendment #7

Page 2, Line 23; Section 41.21.880(d) should read:

(d) [The commissioner of natural resources may not take any action to restrict either directly or indirectly the exercise of s]Sport and subsistence . . . within the Nelchina Public Use Area shall be allowed as long as it occurs in a manner that is compatible with the purposes specified in Section 41.21.876, (1) and (2).

Amendment #8

Page 3, Line 1; Section 41.21.880(e) should read:

. . . fishing, trapping and recreational purposes[.], as long as it occurs in a manner that is compatible with the purposes specified in Section 41.21.876, (1) and (2).

Amendment #9

Page 3, Line 12; Section 41.21.882 should read:

(a) Core caribou calving area (Correct legal description to follow):

Amendment #10

Page ?, Line ?, Section 41.21.882 should read:

(b) Other lands (Correct legal description to follow)

Amendment #11

Page 7, Line 1, Section 41.21.882(83) should read:

(83) that portion of township 30. [20]. North

Amendment #12

Page 8, Line 1, Section 41.21.882(98) should read:

(98) Township 3 North, Range 9 west, Copper River
Meridian, [;]

Section 1-30

Section 33-34

Amendment #13

Page 8, Line 2, Section 41.21.882(99) should read:

(99) Township 3 North, Range 10 West, Copper River Meridian;

[Sections 1-30]

[Sections 33-34]

Offered: 5/10/85
Referred: Finance

Original sponsors: Kerttula and V. Fischer

Key changes in red

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 HOUSE CS FOR CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 35 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Nelchina Public Use Area."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 41 is amended by adding a new chapter to read:

9 CHAPTER 23. MULTIPLE USE MANAGEMENT OF PUBLIC RESOURCES.

10 ARTICLE 1. PUBLIC USE AREAS.

11 Sec. 41.23.010. PURPOSE. The purpose of AS 41.23.010 - 41.23.-
12 040 is to establish the area described in AS 41.23.040 as the Nelchina
13 Public Use Area. The Nelchina Public Use Area is established to

14 (1) protect and maintain fish and wildlife habitat, partic-
15 ularly caribou calving areas, trumpeter swan nesting areas, and other
16 important habitats for moose, Dall sheep, and brown bear so that
traditional public uses of fish and wildlife populations may continue;

17 (2) perpetuate and enhance public enjoyment of fish and
18 wildlife and their habitat including fishing, hunting, trapping,
19 viewing, photography;

20 (3) perpetuate and enhance general public recreation in a
21 quality environment;

22 *new* — (4) perpetuate and enhance additional public uses described
23 in the Susitna Area Plan; *Results in - 0 - fiscal note -*

24 (5) allow additional public uses of the area in a manner
25 *this work has already been done.*
26 compatible with the purposes specified in (1) - (4) of this section.

27 Sec. 41.23.020. MANAGEMENT. (a) Management of the surface and
28 subsurface estate of the Nelchina Public Use Area is the responsibil-
29 ity of the Department of Natural Resources. After adequate public

*cannot allow
hunting & fishing*

1 hearings the commissioner may designate incompatible uses and shall
2 adopt and may revise a management plan for the Nelchina Public Use
3 Area. With regard to the management of land within the central caribou
4 calving area described in AS 41.23.040(b), the commissioner shall
5 obtain the concurrence of the Department of Fish and Game in the
6 adoption and revision of the management plan. With regard to the
7 management of land within the public use area described in AS 41.23.-
8 040(c), the commissioner shall consult with the Department of Fish and
9 Game in the adoption and revision of the management plan.

10 (b) The Department of Fish and Game is responsible for the
11 management of fish and game resources and public use of fish and
12 wildlife in the Nelchina Public Use Area consistent with the purposes
13 of AS 41.23.010.

14 (c) The Nelchina Public Use Area shall be open to mineral entry
15 under AS 38.05.185 - 38.05.275, and the commissioner may adopt regu-
16 lations to achieve the purposes specified in AS 41.23.010. Each valid
17 existing right or permit shall remain valid and continue in full force
18 and effect according to its terms. Exploration, development, and
19 extraction of subsurface resources shall be allowed in a manner that *[as long as it occurs]*
20 is compatible with the purposes specified in AS 41.23.010(1) - (4).

21 (d) The state may not acquire by eminent domain privately owned
22 land within or abutting state-owned land described in AS 41.23.040 but
23 may acquire privately owned land by purchase, exchange, or otherwise
24 for inclusion in the Nelchina Public Use Area.

25 (e) The commissioner may not manage the Nelchina Public Use Area
26 as a unit of the state park system.

27 Sec. 41.23.030. COMPATIBILITY OF USES. (a) Except as provided
28 in this section, the commissioner may prohibit or restrict incompat-
29 ible uses under the management plan adopted under AS 41.23.020 within

1 the state-owned land and water described in AS 41.23.040.

2 (b) Nothing in AS 41.23.010 - 41.23.040 prohibits the Department
3 of Fish and Game from engaging in rehabilitation, enhancement, and
4 development of fish and wildlife habitat within an area described in
5 AS 41.23.040.

6 (c) The commissioner may not restrict lawful sport and subsis-
7 tence fishing, hunting, or trapping rights allowed under a regulation
8 of the Board of Fisheries or the Board of Game within the Nelchina
9 Public Use Area.

10 (d) The commissioner shall allow traditional access to the
11 Nelchina Public Use Area by motorized or nonmotorized means of trans-
12 portation to private land, interests in private land, and for lawful
13 sport and subsistence hunting, fishing, trapping, and recreational
14 purposes in a manner that is compatible with purposes specified in
15 AS 41.23.010(1) - (4).

16 (e) The Department of Public Safety and the Department of Fish
17 and Game shall have necessary access for fish and game management,
18 research, and enforcement purposes.

19 (f) If the commissioner determines that a use is incompatible
20 with one or more other uses in a portion of the Nelchina Public Use
21 Area, the commissioner shall state in the management plan adopted or
22 revised under AS 41.23.020

- 23 (1) each determination of incompatibility;
24 (2) the specific area where the incompatibility is de-
25 termined to exist;
26 (3) the time within which the incompatibility is determined
27 to exist; and
28 (4) the reasons for each determination of incompatibility.

29 Sec. 41.23.040. NELCHINA PUBLIC USE AREA. (a) The vacant and

*new section
Burden of
proof on
Commissioner*

1 unappropriated state-owned land and water and the state land and water
2 acquired in the future that lie within the boundaries described in
3 this section are designated as the Nelchina Public Use Area, are
4 reserved for all uses compatible with their primary function as public
5 use land, and are assigned to the Department of Natural Resources for
6 control and management.

7 (b) The land described in this subsection is the central caribou
8 calving area:

9 (1) Township 5 North, Range 10 West, Copper River Meridian,

10 Section 5

11 Section 8

12 Section 17;

13 (2) Township 6 North, Range 10 West, Copper River Meridian,

14 Sections 4 - 5

15 Sections 8 - 9

16 Sections 16 - 17

17 Sections 20 - 21

18 Sections 28 - 29

19 Sections 32 - 33;

20 (3) Township 7 North, Range 10 West, Copper River Meridian,

21 Sections 4 - 5

22 Sections 8 - 9

23 Sections 16 - 17

24 Sections 20 - 21

25 Sections 28 - 29

26 Sections 32 - 33;

27 (4) Township 8 North, Range 10 West, Copper River Meridian,

28 Sections 4 - 5

29 Sections 8 - 9

1 (13) Township 24 North, Range 8 East, Seward Meridian;
 2 (14) Township 24 North, Range 9 East, Seward Meridian;
 3 (15) Township 24 North, Range 10 East, Seward Meridian;
 4 (16) Township 24 North, Range 11 East, Seward Meridian;
 5 (17) Township 24 North, Range 12 East, Seward Meridian,
 6 Sections 1 - 23
 7 Sections 26 - 31
 8 (18) Township 25 North, Range 7 East, Seward Meridian,
 9 Sections 1 - 2
 10 Sections 11 - 13
 11 Sections 24 - 25
 12 Section 36;
 13 (19) Township 25 North, Range 8 East, Seward Meridian;
 14 (20) Township 25 North, Range 9 East, Seward Meridian;
 15 (21) Township 25 North, Range 10 East, Seward Meridian;
 16 (22) Township 25 North, Range 11 East, Seward Meridian;
 17 (23) Township 25 North, Range 12 East, Seward Meridian;
 18 (24) Township 26 North, Range 7 East, Seward Meridian,
 19 Sections 1 - 17
 20 Sections 20 - 28
 21 Sections 35 - 36
 22 (25) Township 26 North, Range 8 East, Seward Meridian;
 23 (26) Township 26 North, Range 9 East, Seward Meridian;
 24 (27) Township 26 North, Range 10 East, Seward Meridian;
 25 (28) Township 26 North, Range 11 East, Seward Meridian;
 26 (29) Township 26 North, Range 12 East, Seward Meridian;
 27 (30) Township 27 North, Range 6 East, Seward Meridian,
 28 Sections 1 - 3
 29 Sections 11 - 13;

- 1 (31) Township 27 North, Range 7 East, Seward Meridian,
2 (32) Township 27 North, Range 8 East, Seward Meridian;
3 (33) Township 27 North, Range 9 East, Seward Meridian;
4 (34) Township 27 North, Range 10 East, Seward Meridian;
5 (35) Township 27 North, Range 11 East, Seward Meridian;
6 (36) Township 27 North, Range 12 East, Seward Meridian;
7 (37) Township 28 North, Range 6 East, Seward Meridian,
8 Sections 1 - 6
9 Sections 8 - 17
10 Sections 21 - 28;
11 Sections 33 - 36;
12 (38) Township 28 North, Range 7 East, Seward Meridian,
13 (39) Township 28 North, Range 8 East, Seward Meridian;
14 (40) Township 28 North, Range 9 East, Seward Meridian;
15 (41) Township 28 North, Range 10 East, Seward Meridian;
16 (42) Township 28 North, Range 11 East, Seward Meridian;
17 (43) Township 28 North, Range 12 East, Seward Meridian;
18 (44) Township 29 North, Range 5 East, Seward Meridian,
19 Section 13
20 Sections 23 - 26
21 Section 36;
22 (45) Township 29 North, Range 6 East, Seward Meridian;
23 (46) Township 29 North, Range 7 East, Seward Meridian,
24 (47) Township 29 North, Range 8 East, Seward Meridian;
25 (48) Township 29 North, Range 9 East, Seward Meridian;
26 (49) Township 29 North, Range 10 East, Seward Meridian;
27 (50) That portion of Township 29 North, Range 11 East,
28 Seward Meridian, lying south of the Susitna River;
29 (51) Township 29, North, Range 12 East, Seward Meridian,

1 Sections 3 - 9
2 Sections 16 - 21
3 Sections 28 - 34;
4 (52) Township 30 North, Range 6 East, Seward Meridian,
5 Sections 13 - 14
6 Sections 20 - 29
7 Sections 32 - 36;
8 (53) Township 30 North, Range 7 East, Seward Meridian,
9 Sections 1 - 3
10 Sections 8 - 36
11 (54) Township 30 North, Range 8 East, Seward Meridian;
12 (55) That portion of Township 30 North, Range 9 East, Seward
13 Meridian, lying southeast of the Susitna River;
14 (56) That portion of Township 30 North, Range 10 East,
15 Seward Meridian, lying south of the Susitna River;
16 (57) That portion of Township 30 North, Range 11 East,
17 Seward Meridian, lying south of the Susitna River;
18 (58) That portion of Township 30 North, Range 12 East,
19 Seward Meridian, lying south of the Susitna and Tyone Rivers;
20 (59) Township 31 North, Range 7 East, Seward Meridian,
21 Sections 13 - 14,
22 Sections 22 - 27
23 Sections 34 - 36;
24 (60) That portion of Township 31 North, Range 8 East, Seward
25 Meridian, lying south of the Susitna River;
26 (61) That portion of Township 31 North, Range 9 East, Seward
27 Meridian, lying south of the Susitna River;
28 (62) Township 31 North, Range 10 East, Seward Meridian, that
29 portion of section 31 lying southeast of the Susitna River.

1 (c) The land described within this subsection is the area of the
2 Nelchina Public Use Area that is outside of the central caribou calv-
3 ing area:

4 (1) Township 21 North, Range 6 East, Seward Meridian,
5 Section 1
6 Section 3, W1/2
7 Sections 4 - 9
8 Section 11, E1/2
9 Sections 12 - 13
10 Section 14, E1/2
11 Sections 16 - 20
12 Section 23, E1/2
13 Sections 24 - 27
14 Section 30;

15 (2) Township 21 North, Range 7 East, Seward Meridian,
16 Sections 1 - 26
17 Sections 29 - 30
18 Section 33, S1/2
19 Section 34, S1/2
20 Sections 35 - 36;

21 (3) Township 21 North, Range 8 East, Seward Meridian;
22 (4) Township 21 North, Range 9 East, Seward Meridian;
23 (5) Township 21 North, Range 10 East, Seward Meridian;
24 (6) Township 22 North, Range 6 East, Seward Meridian,
25 Sections 1 - 22
26 Sections 24 - 25
27 Sections 27 - 34
28 Section 36;

29 (7) Township 22 North, Range 7 East, Seward Meridian;

- 1 (8) Township 22 North, Range 8 East, Seward Meridian;
2 (9) Township 22 North, Range 9 East, Seward Meridian;
3 (10) Township 22 North, Range 10 East, Seward Meridian;
4 (11) Township 22 North, Range 11 East, Seward Meridian;
5 (12) Township 22 North, Range 12 East, Seward Meridian,
6 Sections 1 - 24
7 Sections 27 - 34;
8 (13) Township 23 North, Range 6 East, Seward Meridian;
9 (14) Township 23 North, Range 7 East, Seward Meridian;
10 (15) Township 23 North, Range 8 East, Seward Meridian,
11 Section 7
12 Sections 13 - 36;
13 (16) Township 23 North, Range 9 East, Seward Meridian,
14 Sections 15 - 36;
15 (17) Township 23 North, Range 10 East, Seward Meridian,
16 Sections 1 - 2
17 Sections 10 - 16
18 Sections 21 - 36;
19 (18) Township 23 North, Range 11 East, Seward Meridian,
20 Sections 5 - 36;
21 (19) Township 23 North, Range 12 East, Seward Meridian,
22 Sections 1 - 5
23 Sections 7 - 36;
24 (20) Township 24 North, Range 6 East, Seward Meridian;
25 (21) Township 24 North, Range 7 East, Seward Meridian,
26 Sections 2 - 11
27 Sections 14 - 23
28 Sections 26 - 36;
29 (22) Township 24 North, Range 12 East, Seward Meridian,

- 1 (40) Township 29 North, Range 3 East, Seward Meridian;
2 (41) Township 29 North, Range 4 East, Seward Meridian;
3 (42) Township 29 North, Range 5 East, Seward Meridian,
4 Sections 1 - 12
5 Sections 14 - 22
6 Sections 27 - 35;
7 (43) Township 29 North, Range 12 East, Seward Meridian,
8 Sections 1 - 2
9 Sections 10 - 15
10 Sections 22 - 27
11 Sections 35 - 36;
12 (44) Township 30 North, Range 3 East, Seward Meridian;
13 (45) Township 30 North, Range 4 East, Seward Meridian;
14 (46) Township 30 North, Range 5 East, Seward Meridian;
15 (47) Township 30 North, Range 6 East, Seward Meridian,
16 Sections 1 - 12
17 Sections 15 - 19
18 Sections 30 - 31;
19 (48) Township 30 North, Range 7 East, Seward Meridian,
20 Sections 4 - 7;
21 (49) That portion of Township 31 North, Range 3 East, Seward
22 Meridian, lying south of the Susitna River;
23 (50) That portion of Township 31 North, Range 4 East, Seward
24 Meridian, lying south of the Susitna River;
25 (51) Township 31 North, Range 5 East, Seward Meridian;
26 (52) Township 31 North, Range 6 East, Seward Meridian;
27 (53) Township 31 North, Range 7 East, Seward Meridian, those
28 portions of Sections 2 - 4 and Sections 11 - 12 lying south of the
29 Susitna River, and

- 1 Sections 5 - 10
- 2 Sections 15 - 21
- 3 Sections 28 - 33;
- 4 (54) That portion of Township 32 North, Range 4 East, Seward
- 5 Meridian, lying south of the Susitna River;
- 6 (55) That portion of Township 32 North, Range 5 East, Seward
- 7 Meridian, lying south of the Susitna River;
- 8 (56) That portion of Township 32 North, Range 6 East, Seward
- 9 Meridian, lying south of the Susitna River;
- 10 (57) That portion of Township 32 North, Range 7 East, Seward
- 11 Meridian, lying south of the Susitna River;
- 12 (58) Township 3 North, Range 9 West, Copper River Meridian,
- 13 Sections 1 - 30
- 14 Sections 33 - 34;
- 15 (59) Township 3 North, Range 10 West, Copper River Meridian;
- 16 (60) Township 3 North, Range 11 West, Copper River Meridian;
- 17 (61) Township 4 North, Range 9 West, Copper River Meridian,
- 18 all sections except for portions of sections 20 and 29 described as
- 19 John Lake Subdivision (ASLS-82-190);
- 20 (62) Township 4 North, Range 10 West, Copper River Meridian;
- 21 (63) Township 4 North, Range 11 West, Copper River Meridian;
- 22 (64) Township 5 North, Range 9 West, Copper River Meridian;
- 23 (65) Township 5 North, Range 10 West, Copper River Meridian,
- 24 Sections 1 - 4
- 25 Sections 9 - 16
- 26 Sections 19 - 36;
- 27 (66) Township 6 North, Range 9 West, Copper River Meridian;
- 28 (67) Township 6 North, Range 10 West, Copper River Meridian,
- 29 Sections 1 - 3

- 1 Sections 10 - 15
- 2 Sections 22 - 27
- 3 Sections 34 - 36;
- 4 (68) Township 7 North, Range 9 West, Copper River Meridian;
- 5 (69) Township 7 North, Range 10 West, Copper River Meridian,
- 6 Sections 1 - 3
- 7 Sections 10 - 15
- 8 Sections 22 - 27
- 9 Sections 34 - 36;
- 10 (70) Township 8 North, Range 9 West, Copper River Meridian;
- 11 (71) Township 8 North, Range 10 West, Copper River Meridian,
- 12 Sections 1 - 3
- 13 Sections 10 - 15
- 14 Sections 22 - 27
- 15 Sections 34 - 36;
- 16 (72) That portion of Township 9 North, Range 9 West, Copper
- 17 River Meridian, lying south west of the Tyone River;
- 18 (73) Township 9 North, Range 10 West, Copper River Meridian,
- 19 Sections 1 - 4
- 20 Sections 9 - 16
- 21 Sections 23 - 26
- 22 Sections 35 - 36;
- 23 (74) That portion of Township 10 North, Range 9 West, Copper
- 24 River Meridian, lying southwest of the Tyone River;
- 25 (75) Township 10 North, Range 10 West, Copper River Merid-
- 26 ian, that portion of Sections 12 and 13 south of the Tyone River, and
- 27 Sections 21 - 28
- 28 Sections 33 - 36
- 29 * Sec. 2. Nothing in AS 41.23.010 - 41.23.040 as enacted in sec. 1 of

1 this Act may be construed to restrict the development and establishment of
2 the Susitna Hydroelectric Project.

HCS5555B35(Re)

modified
LETTER of INTENT

The intent of this legislation is to protect the calving areas and the habitat that is critical to the Nelchina caribou herd and the recreational use of the area. However, the area is designed to be a multiple use area. Other uses, including mining, will be allowed as long as they are compatible with caribou and other wildlife, and their use and enjoyment.

The Nelchina caribou herd, numbering 25,000, is the largest in southcentral Alaska and, due to its proximity to both Anchorage and Fairbanks, has since before statehood, been more accessible to more people in Alaska than any other caribou herd. The area utilized by the caribou adjoins the most rapidly developing region in Alaska, and I am more convinced than ever of the desirability of retaining it for caribou habitat and other wildlife values.

The bill provides for the establishment of the Nelchina Public Use Area. In so doing, it ensures that these lands will remain in public ownership and that area fish and wildlife populations and habitat, as well as associated recreational uses are available for use by Alaskans in perpetuity.

Many other uses are compatible with these purposes, and many of them are discussed in the Susitna Area Plan that was signed by DNR and ADF&G in April of 1985. This plan is

referred to in the bill. Future amendments to the Susitna Area Plan will not affect the management of the Nelchina Public Use Area. The legislation calls for a management plan that will study the area and may designate additional incompatible uses. DNR will complete this plan, but ADF&G must concur with the plan in the core calving area. DNR will consult with ADF&G on the plan for the remaining area.

This bill offers the unique opportunity to provide for multiple use management of an area, while ensuring the protection of caribou habitat and recreational opportunities.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

March 26, 1985

The Honorable Arliss Sturgulewski
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Sturgulewski:

I am writing in response to suggestions by persons at the Resources Committee teleconference on SB 35 (Nelchina Public Use Area). The first suggestion was that the southern boundary of the area be shifted to encompass lands along the Glenn Highway. The second was that management of the area be assigned to the Department of Fish and Game rather than to the Department of Natural Resources.

We oppose the suggested boundary change for several reasons. First, in the Susitna Area Plan lands in the affected area have been identified for various uses and disposals that would not be allowed or adequately emphasized if the lands were included in the Public Use Area. For instance, of the 120,000 acres identified in the Susitna Area Plan for land disposal over the next 20 years, there are several important disposal areas along the Glenn Highway. In the process of disposal and management of these state lands, the department will protect public access to the Nelchina Public Use Area; designation of this whole area just to protect these access opportunities would be inappropriate.

We also would oppose an amendment to provide for management of the area by the Department of Fish and Game. The intent of the bill is to protect recreation and habitat opportunities while leaving the area open to mineral entry and allowing a variety of multiple uses. For this type of management, as envisioned in the Susitna Area Plan and discussed and agreed upon by DNR and ADF&G, assignment of the lands to DNR is important.

The Honorable Arliss Sturgulewski -2-

March 26, 1985

Thank you for your work on this bill. Please contact me if I may be of assistance.

Sincerely,

Br. Amund, Deputy
Esther C. Wunnicke
Commissioner

cc: Tom Hawkins, Director, Division of
Land and Water Management
Commissioner Don Collinsworth



Dept. of Transportation & Public Facilities

MAR 21 1985

Position Paper

BILL NO: SSSB 35

APPROVED: 
B. W. Krapp
Commissioner

TITLE: An Act Creating the Nelchina Public Use Area

DATE: 3/11/85

The Department of Transportation and Public Facilities has no objection to the creation of the Nelchina Public Use Area based on our understanding of SSSB 35. Our understanding is that SSSB 35 is creating a new category of State managed land use under Title 16 ("Fish and Game") of the Alaska Statutes. Further, it is our understanding that this is a new category of land use, and restrictions will be developed and adopted under a management plan to be done at a later time.

Based on these understandings, it is the Department of Transportation and Public Facilities' position that the Department be a member of any group or body responsible for the development of the management plan for the Nelchina Public Use Area. Such membership will ensure that transportation related issues and concerns, as relate to the Department's responsibilities, are addressed to the fullest extent possible during critical stages of the management plan's development and implementation.

MEMORANDUM

State of Alaska

PM

SCW → HF → CW

2 copies
please

TO: James K. Barnett
Deputy Commissioner
Department of Natural Resources

DATE: February 21, 1985

FILE NO: 166-136-85

FROM: Norman C. Gorsuch
Attorney General

DEPARTMENT OF
NATURAL RESOURCES

FEB 28 1985

Application of
Title 38 to
State Parks and
State Forests

By: Barbara J. Miracle BJM
Assistant Attorney General
Natural Resources-Anchorage

COMMISSIONER'S OFFICE
JUNEAU

By memorandum to this office you requested an opinion concerning the applicability of the provisions of Title 38 to state land identified by the legislature for specific purposes, namely state parks, state forests and wildlife refuges. 1/

The short answer to your question is that Title 38 does not apply to land withdrawn from the state public domain as a state park or recreation area, Title 38 does apply to state forests, except that land in a state forest may not be conveyed to a third party and is subject to limitations on other types of state land disposals.

State parks and state forests may be considered as state land areas which are either totally (state parks) or partially (state forests) withdrawn from the state public domain and the general state land disposal laws. These areas may also be considered as state land subject to a special use classification by the legislature. This memorandum explores both theories. However the result in terms of the applicability of Title 38 is the same under either theory. The legislation establishing state parks closes such areas to the operation of Title 38; 2/ the legislation establishing state forests makes such areas subject to some, but not all, of the provisions of Title 38.

1/ I have not addressed wildlife refuges in this memorandum because Assistant Attorney General Larri I. Spengler is about to issue a memorandum on the management of wildlife refuges to the Department of Fish and Game.

2/ There is one exception. The Alaska Bald Eagle Preserve is subject to state leasing laws in Title 38. See discussion at p. 9, infra.

INTRODUCTION

Title 38 contains the statutory authority of the Department of Natural Resources to acquire, manage, and dispose of state land. The Alaska Land Act, codified at AS 38.05, was passed by the legislature in 1959 shortly after statehood and implements article VIII of the Alaska Constitution, which gives the legislature the power to provide for the management of state land. Moore v. State, 553 P.2d 8, 21 (Alaska 1976); North Slope Borough v. LeResche, 581 P.2d 1112, 1114 (Alaska 1978). With few exceptions, the Alaska Land Act gives the division of lands within the Department of Natural Resources management power over all state land. 1961 Op. Att'y Gen. No. 9 (Mar. 13); 1977 Op. Att'y Gen. No. 16 at 4. (Apr. 14). AS 38.05.035(a)(2) and (?) state that the director of the division of lands shall:

(2) manage, inspect and control state lands and improvements on it belonging to the state and under the jurisdiction of the division;

(7) have jurisdiction over state land, except that land acquired by the Alaska World War II Veterans Board or the Agricultural Loan Board or the departments or agencies succeeding to their respective functions through foreclosure or default; to this end the director possesses the powers and, with the approval of the commissioner, shall perform the duties necessary to protect the state's rights and interest in state land, including the taking of all necessary action to protect and enforce the state's contractual or other property rights

The Alaska Land Act authorizes the Department of Natural Resources, inter alia, to sell state land under AS 38.05.045, to lease it under AS 38.05.070, to sell timber and materials under AS 38.05.110, to lease mineral lands under AS 38.05.135, and to issue permits and easements over state land under AS 38.05.850. The definition of state land in the Alaska Land Act is very broad. AS 38.05.965(19) defines state land as:

"state land" or "land" means all land, including shore, tide and submerged land, or resources belonging to or acquired by the state

Several statutes have been added to Title 38 to supplement the department's powers over state land. AS 38.04 describes land planning and classification procedures for state land. AS 38.08 establishes a homesite program and AS 38.09 a homestead program. AS 38.35 describes leasing of rights-of-way for pipeline purposes and AS 38.50 describes disposals of state land by land exchange.

Your question is which, if any, of the provisions of Title 38 apply to special legislatively designated areas like state parks and forests.

STATE PARKS

1. State Parks Are Withdrawn From The State Public Domain Under Article VIII, Section 7 Of The Alaska Constitution.

The legislature has set aside numerous parks and recreation areas in the state. With only two exceptions, the legislature cited article VIII, section 7 of the Alaska Constitution as authority for its establishment of these state parks and recreation areas. 3/ The Kachemak Bay State Park enabling statute is typical of the language used by the legislature in designating an area as a state park or recreation area. AS 41.21.130 states:

3/ The following statutes cite article VIII, section 7 of the Alaska Constitution as authority for the legislature's action in establishing the park or recreation area: AS 41.21.110 (Chilkat State Park); AS 41.21.120 (Chugach State Park); AS 41.21.130 (Kachemak Bay State Park); AS 41.21.150 (Denali State Park); AS 41.21.160 (Wood-Tikchik State Park); AS 41.21.300 (Alaska Marine Parks); AS 42.21.410 (Captain Cook State Recreation Area); AS 41.21.430 (Caines Head State Recreation Area); AS 41.21.610 (Alaska Chilkat Bald Eagle Preserve); AS 41.21.170 (Shuyak Island State Park); and AS 41.51.504(b) (Kenai River Special Management Area).

The two earliest park areas established by the legislature do not cite the constitutional provision as authority for the legislature's action. However, AS 41.21.450, establishing the Nancy Lake Recreation Area, and AS 41.21.470, establishing the

(Footnote continued)

The purpose of AS 41.21.130-41.21.143 is to restrict state-owned land and water described in AS 41.21.131 to use as a state park. Under AS 38.05.300, state land, water, or land and water containing more than 640 acres may be closed to multiple purpose use only by act of the legislature. Because the area described in AS 41.21.143 exceeds 640 acres, AS 41.21.130-41.21.143 are intended to provide for the closing of the described land and water to multiple purpose use in conformity with AS 38.05.300 and its subsequent designation as a special purpose site in accordance with art. VIII, § 7 of the Constitution of the State of Alaska.

Article VIII, section 7 of the Alaska Constitution states as follows:

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

Article VIII, section 7 authorizes the acquisition of land or the reservation of land already owned by the state from the public domain for use as a special purpose site. Article VIII, section 6 defines the term "public domain" as state land which is not intended exclusively for governmental purposes. Article VIII, section 6 states:

Lands and interests therein, including submerged and tidal lands, possessed or acquired by the State, and not used or intended exclusively for governmental purposes, constitute the state public domain. The legislature shall provide for the selection of lands granted to the State by the

(Footnote continued)

Chena River Recreation Area, state that the areas are closed to multiple purpose use. See discussion at pp. 10-12 infra.

United States, and for the administration of the state public domain.

There is little discussion of article VIII, section 7 in the minutes of the state constitutional convention. The existing history indicates that the provision was not controversial and was intended to authorize the legislature to withdraw special areas of the state from the public domain so the land would be preserved for public use and would not be subject to the general state land disposal laws.

The origin of article VIII, section 7 is unclear. The Public Administration Service, a private consulting firm, prepared a report for the Alaska Statehood Committee which reviewed provisions of various natural resources articles from other state constitutions and suggested a natural resources article for the State of Alaska. 3 Public Administration Service, The Alaska Constitution and the State Patrimony in Constitutional Studies prepared on Behalf of the Alaska Statehood Committee for the Alaska Constitutional Convention. The report did not describe any state constitutional provisions authorizing withdrawal of land from the public domain for state parks or any other reason, nor did it suggest such a provision for Alaska. The report did state that, while an article on state parks and recreation areas might have no place in the state constitution, sports, hunting, fishing, and tourism could potentially bring considerable income to the state and would eventually require a system of state parks and recreation areas. Id. at pp. 13-14. The report concluded that parks and recreation areas should be listed among the surface resources of the new state. Id.

The first draft of the natural resources article of the constitution printed in the constitutional minutes, committee proposal 8, at section 6 was the precursor of article VIII, section 7, authorizing acquisition, management and preservation of special sites in areas of the state:

Sites, objects, and areas of natural beauty or of historic, cultural or scientific interest may be acquired, preserved, and administered for the use, enjoyment and welfare of the people, under the laws of the state.

The committee's commentary concerning section 6 states that "these sites, objects or areas might ultimately become state monuments or parks." Section 7 of the Committee Proposal 8

defined the term "public domain". Section 7 stated in pertinent part:

Lands and interests therein possessed or acquired by the state, including submerged and tidal lands, and not used or intended exclusively for governmental purposes or for reserved sites and areas, constitute the state public domain.

The committee commentary to committee proposal 8 explained the definition of "public domain" in section 7 as follows:

This section defines the state public domain to include all lands and interests therein that are acquired by the state except for (1) lands used or intended to be used exclusively for governmental operations and (2) those sites and areas that have been acquired or reserved for special scenic, historic, cultural or scientific interests.

Section 8 of committee proposal 8 authorizes leasing of land in the state public domain.

The next draft of the natural resources article, committee proposal 8A, changed the special purposes site provision slightly, specifically stating that the site could be reserved from the state public domain:

Sites, objects, and areas of natural beauty or of historic, cultural, recreational or scientific interest may be acquired, preserved, and administered for the use, enjoyment and welfare of the people, under the laws of the state, and may be reserved from the state public domain.

There is little discussion in the constitutional minutes of the section of article VIII allowing special purpose sites to be withdrawn from the public domain. Burke Riley, Secretary of the Natural Resources Committee, explained the provision at the convention as follows:

Section 8 reflects some delegate proposals whereby particular areas or sites or objects may be set aside apart from the disposable public domain for their historic, recreational, or cultural interest to the people.

James K. Barnett, Deputy Commissioner
Department of Natural Resources
166-136-85

February 21, 1985
Page 7

Minutes to the Proceedings of the Alaska Constitutional Convention, 1955-6, at 2452 (1965).

Several prior opinions from this office have concluded that state park land is not subject to the lease provisions of Title 38 based upon an interpretation of sections 7 and 8 of article VIII of the Alaska Constitution. Assistant Attorney General Thomas Meacham concluded that mineral leasing was not authorized in state parks. 1980 Inf. Op. Att'y Gen. (July 10; A66-307-80). His conclusion was based on the fact that article VIII, section 7 allows the legislature to reserve land from the public domain as state parks, while article VIII, section 8 limits the issuance of mineral and other leases to the state public domain. *Id.* at pp. 5 and 6. Accord, 1981 Inf. Op. Att'y Gen. 2-3 (Feb. 5; A66-249-81). See also, 1982 Inf. Op. Att'y Gen. 2 (Jan 22; A66-231-82) (non-mineral leases are not permitted in state parks because parks are withdrawn from the public domain).

The phrase "public domain" has a settled meaning in public land law. The term "public domain" is considered synonymous with the term "public land" and does not include all of the land owned by the United States or a state. These terms are typically used to describe land which is subject to sale or other disposal under the general laws of the federal government or a state and do not include land reserved for a special governmental or public purpose. Hammerly v. Denton, 359 P.2d 121, 123 (Alaska 1961); Lund v. Nichols, 57 P.2d 592, 594 (Okla. 1936); State ex rel. Town of Crescent City v. Holland, 10 So.2d 577, 590 (Fla. 1942); Holz v. Lyles, 195 So.2d 897, 899 (Ala. 1967); Application of Oklahoma Planning and Resources Board, 203 P.2d 415, 419 (Okla. 1949). Land may be withdrawn from all or some of the general land laws in order to reserve the area for a particular public purpose. To the extent that land is reserved from the public domain, it is no longer under the control of the government agency concerned with land disposal. Florida Town Improvement Co. v. Bigalsky, 33 So. 450, 451 (Fla. 1902).

The Alaska Supreme Court has never been squarely faced with the issue of the extent to which Title 38 applies to state parks. However, in State v. University of Alaska, 624 P.2d 807, 815 n. 12 (Alaska 1981), the court found that the legislature's placement of certain university grant land in the Chugach State Park withdrew the particular university land involved from the operation of the management mechanism created by AS 38.05.030(a), which concerned the Department of Natural Resources and the

university's joint management of land conveyed to the state for the benefit of the university. 4/

The legislature did not use the phrase "public domain" when the Alaska Land Act was adopted shortly after statehood. It has used the phrase more recently in a manner which supports its understanding of the traditional meaning of the phrase. For example, AS 38.04.070 describes state land which is not part of the public domain as land which is intended for retention in public ownership, such as state forests, state parks, state trails and wild and scenic rivers. The statute defines the state public domain as:

Land within areas designated on regional plans as settlement and settlement impact which are not part of the management categories listed in (1) - (4) of this section [namely, state forests, state parks, state trails, and wild and scenic rivers]; through classification, this land may be made available for private use, settlement, and development as well as for public uses associated with settlement and development.

There are no regulations implementing this statute. In another recent statute AS 14.40.291, approving transfer of management responsibility for university grant lands from the Department of Natural Resources to the university, the statute states that such lands are no longer part of the state public domain, namely the lands may no longer be managed by the Department of Natural Resources pursuant to Title 38.

With one exception, none of the acts establishing state parks and recreation areas indicates that such areas are subject

4/ Former AS 38.05.030(a) stated:

The sale, lease or other disposal of university lands shall be made by the commissioner in accordance with the provisions of this chapter and ch. 50 of this title. No sale, lease, exchange or other disposal of university lands may be made without the approval of the Board of Regents of the University of Alaska.

to Title 38. 5/ The one exception is the Alaska Chilkat Bald Eagle Preserve. Although AS 41.21.610 states that the reserve is withdrawn from the public domain, AS 41.21.617 specifically allows the commissioner to issue leases in the preserve under AS 38.05.070 - 38.05.105 for a purpose consistent with the purposes for which the reserve was established as described in AS 41.21.610. The withdrawal of the Chilkat Bald Eagle Preserve from the public domain is a partial withdrawal. The land in the preserve is still subject to state leasing laws, although leasing is severely circumscribed by AS 41.21.610.

In conclusion, the state constitution authorizes the legislature to withdraw special purpose sites from the state public domain so that they may be preserved for the enjoyment of all the people of the state. Areas removed from the public

5/ It has been suggested that AS 41.21.122 authorizes exchanges of land in the Chugach State Park. That is not the case. AS 41.21.122, which was enacted before the statute which authorizes land exchanges, AS 38.50, states in pertinent part:

If, in the exercise of management responsibility under this section, conflicts of land ownership, jurisdiction, or authority are unreconcilable or unmanageable other than at an unreasonable cost and expense to the state, the commissioner after public hearing in accordance with AS 44.62 may modify, subject to the approval of the legislature, the boundaries of the Chugach State Park not to exceed 20 per cent of the total acreage described in AS 41.21.121.

AS 41.21.122 creates a procedure whereby the commissioner may recommend a boundary modification for the Chugach State Park, which must be approved by the legislature before it becomes effective. The legislative approval must be by a duly enacted statute. If land is removed from the park by the legislature, it is land in the public domain which may be exchanged under AS 38.50.

domain are not subject to the general state laws concerning management and disposal of state land contained in Title 38. 6/

2. State Parks Are Closed To Multiple Purpose Use.

The establishment clause of all state parks and recreation areas also states that the land is closed to multiple purpose use in ~~conformity with AS 38.05.300.~~ 7/ Under AS ~~38.05.300~~ only the legislature can close areas greater than 640 acres to multiple purpose use. AS 38.05.300 states in pertinent part:

State land, water, or land and water area may not, except by act of the state legislature, be closed to multiple purpose use if the area involved contains more than 640 acres.

AS 38.05.965(11) states that the phrase "multiple use" has the same meaning in AS 38.05 as given in AS 38.04.910. AS 38.04.910(4) defines "multiple use" as follows:

"multiple use" means the management of state land and its various resource values so that it is used in the combination that will best meet the present and future needs of the people of Alaska, making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; it includes

6/ This does not mean that land or resources in legislatively created state parks may be sold, exchanged, leased etc. free from the restrictions of Title 38. The constitution simply did not authorize disposal of park land or resources. Any attempt by any state agency to do so, including the division of parks, violates the state constitution.

7/ The Kachemak Bay State Park enabling statute is typical of the language used by the legislature in citing AS 38.05.300 when it establishes a state park or recreation area. See p. 4, supra.

(A) the use of some land for less than all of the resources, and

(B) a combination of balanced and diverse resource uses that takes into account the short-term and long-term needs of present and future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historic values

There are no statutes, regulations or Alaska cases defining what it means to close an area to "multiple purpose" use. However, department practice is helpful in interpreting this concept.

The department has exercised its authority to dedicate state land to a single purpose use with the Interagency Land Management Assignment (ILMA). The ILMA is described at p. 2 of chapter 5121 of the department's Policy and Procedure Manual:

An "interagency land management assignment" (ILMA) is the document used to assign management authority on [sic] state lands from this division to other state agencies authorized to hold and manage lands and other divisions of DNR. An ILMA is issued in order to further a specific management objective, usually one that requires the expenditure of state funds for intense management practices or the physical improvement of the land. An ILMA can be considered a grant or dedication of state lands for a specific purpose, to be managed by another state agency for a definite or indefinite time frame.

The division of land and water uses the ILMA to transfer management authority over state land to another state agency or division within the Department of Natural Resources. Once the transfer occurs the land is no longer managed under AS 38.05 but under the statutory authority of the new managing agency. The division of land and water has used the ILMA on numerous occasions to transfer state land of less than 640 acres to the division of parks for a single purpose use, public recreation, to

be managed under AS 41.21, the division of parks' statutory authority for managing park land. 8/

In the statutes establishing the various state parks and recreation areas, the legislature has itself dedicated such areas to a single purpose use to be managed solely as state parks under AS 41.21. Areas classified by the legislature for use solely as a public park are closed to the operation of the state's general land disposal laws contained in Title 38.

Therefore, whether we view state parks as areas withdrawn from the state public domain or simply as areas dedicated to a single use by the legislature, the result in terms of the management of the land is the same. The provisions of Title 38 do not apply to legislatively created state parks and recreation areas.

STATE FORESTS

The legislature described the state forest system and the purposes and management of state forests at AS 41.17.200 - 41.17.230. The legislature has established the Tanana Valley State Forest at AS 41.17.400 and the Haines State Forest Resource Management Area at AS 41.15.300. For the purposes of your question concerning the applicability of Title 38 to state forests, the two areas are practically indistinguishable and I will address both in this memorandum.

Unlike state parks, the legislature cited neither article VIII, section 7 nor AS 38.05.300 in its establishment of state forests. In fact, AS 41.17.210(a) specifically states that state forests shall be available for multiple use. As a theoretical matter a state forest could be considered as an area which is partially withdrawn from the public domain. AS 38.04.070

8/ It would be advisable to adopt regulations which reflect the department's authority to dedicate land to a single purpose use. The current classification regulations only authorize multiple purpose uses of state land. However, AS 38.05.300 authorizes the department to dedicate state land to a single purpose use. AS 38.05.295 specifically authorizes the department to classify state land as parks, scenic overlooks, cultural sites and recreation areas.

supports this theory since state forests are listed in that statute among the areas of state land which are segregated from the public domain and are not generally subject to private use and development. As previously stated, AS 38.04.070 is a classification statute which has not been implemented by the department. See discussion at p. 8, supra. State forests could also be considered as areas subject to a special classification by the legislature, a circumscribed multiple purpose use classification. As a practical matter, as in the case of the state park system, whether state forests are considered as areas partially withdrawn from the public domain or as areas subject to a special classification by the legislature, the result in terms of the applicability of Title 38 is the same. Although state forests are not totally withdrawn from the application of Title 38, the legislation establishing the state forest system limits the applicability of many of the provisions of Title 38.

AS 41.17.210 makes it clear that land in a state forest may not be conveyed to a third party. AS 41.17.210(b) states:

A state forest established by the legislature shall be retained in state ownership.

Therefore land sales, land exchanges, preference right conveyances, homesites and homesteading are prohibited in a state forest.

The legislature has also limited the applicability of other provisions of Title 38 by specifying the uses which are permitted in state forests. AS 41.17.230(e) requires the commissioner to consider and permit the following uses in state forests:

- (1) commercial timber harvest and related activities;
- (2) harvest of forest products for personal use;
- (3) mining, mining claim, and mineral leasehold location;
- (4) mineral leasing;
- (5) material extraction;
- (6) recreation;

- (7) wildlife and fisheries habitat management including critical habitat management;
- (8) greenbelts;
- (9) trapping and sport and subsistence fishing and hunting;
- (10) grazing;
- (11) watershed management;
- (12) research;
- (13) uses consistent with the policies of AS 38.04.015; and
- (14) other traditional, compatible uses.

AS 38.04.015 describes additional uses of state forests as follows:

- (1) to make them available on a sustained-yield basis for a variety of beneficial uses including subsistence, energy, development, aquaculture, forestry, grazing, sport hunting and fishing, hiking, snowmobiling, skiing, and other activities of a type which can generally be made available to more people and conducted more successfully if the land is in public rather than private ownership;
- (2) to facilitate mining and mineral leasing by managing appropriate public land for surface uses which are compatible with subsurface uses;
- (3) to protect critical wildlife habitat and areas of special scenic, recreational, scientific, or other environmental concern;
- (4) to restrict development in hazardous locations such as floodplains and avalanche zones; and
- (5) to guide the location of settlement and development to minimize public costs and maximize social and economic benefits.

A review of the activities listed in AS 41.17.230(e) and AS 38.04.015 indicates that mineral leases, recreational leases, and grazing leases may be issued in state forests if the area leased is identified for such uses in the management plan for the forest. Sale of timber and materials is also allowed in state forests in areas identified by the management plan. The statute creating the Tanana Valley State Forest also identifies transportation corridors as legitimate uses of that forest. Therefore rights of way for highways, pipelines, etc. are permitted in that forest.

In conclusion the legislature did not withdraw state forests from the application of the general land disposal laws in Title 38, but it severely restricted the application of these laws in the statutes describing management of the state forest system, AS 41.17.

CONCLUSION

It is not possible to give the department a blueprint in this opinion concerning the applicability of Title 38 to all special legislatively designated areas of state land. In each instance, the specific legislation establishing the particular area is the key. In the present case, the legislation establishing state parks removes park land from the operation of Title 38, except for the Chilkat Bald Eagle Preserve where limited leasing is allowed. Parks should be managed under AS 41.21 for park purposes; disposal of park lands is not permissible. The legislation establishing the state forests makes forests subject to Title 38 for certain types of disposals and uses short of conveyance of the land out of state ownership.

It would certainly be helpful in the future when the legislature establishes new special designated areas of state land if the legislation focused on the issue of the extent to which Title 38 applies to the new area. To the extent that other special designated areas, which are not discussed in this memorandum, are causing the department management problems, it may be advisable to seek remedial legislation clarifying the statutes establishing these areas or clarifying the application

James K. Barnett, Deputy Commissioner
Department of Natural Resources
166-136-85

February 21, 1985
Page 16

of Title 38 to state land designated for special purposes by the legislature. 9/

BJM/jmo

cc: Tom Hawkins, Director, Div. Land & Water Management
Neil Johansen, Director, Div. of Parks and Outdoor
Recreation
John Sturgeon, Director, Div. of Forestry
Larri I. Spengler, AGO Juneau

9/ Undoubtedly one source of confusion within the department is the broad definition of state land in the Alaska Land Act at AS 38.05.965(19). See discussion at p. 2, supra. The definition could be clarified to indicate that the provisions on land disposals in AS 38.05 apply only to "public land" or land in the "public domain".

MEMORANDUM

State of Alaska

TO: Jenny Logsdon
Sen. Kerttula's Office

DATE: March 27, 1985

FILE NO:

TELEPHONE NO: 465-4190

FROM: Roland Shanks *RS*
Special Assistant
Department of Fish & Game

SUBJECT: Nelchina Public
Use Area

As per your request, this is written confirmation of your discussion earlier today with Phil Koehl regarding the work draft (3/6/85) of CS for Sponsor Substitute for Senate Bill No. 35 (Resources). The department supports this version as written and including changes you described by telephone, except that Sec. 41.21.882(c) and (d) (page 3, lines 6 and 12) should both end "... in a manner compatible with purposes specified in AS 41.21.876 (1) and (2)" instead of "... AS 41.21.876 (1) through (4)." The inclusion of (3) and (4) would allow the commissioner of DNR the discretion of restricting hunting/fishing as being incompatible with "general public recreation" or "other purposes."

In addition, Sec. 41.21.880. COMPATIBILITY OF USES (page 2, line 23) is confusing as written. It should be rewritten to read: "Except as provided in [(E) OF] this section, the commissioner shall prohibit...." As written in the WORK DRAFT, if the commissioner found (b) of this section incompatible, she would be in a position of having to prohibit something she is required to allow. If she found (c) of this section incompatible, DNR would be in a position of regulating and managing fish and game. This proposed change would have no effect on (d) of this section.

cc: Ed Grasser
Carl Yanagawa
Greg Bos

TO: SENATORS ¹⁰ STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON,
FISCHER, HALFORD, ZHAROFF, KERTTULA

REPRESENTATIVES HERRMANN, SHULTZ

FROM: DAVID BELISLE
KODIAK AUDUBON SOCIETY
BOX 1756
KODIAK, ALASKA 99615
HM: 486-3305 WK: 487-5581

RE: SSSB 35 NELCHINA RECREATION AREA

WE SUPPORT SB-35 AND IT'S PRIMARY PURPOSE OF PROTECTING WILDLIFE
HABITAT. WE BELIEVE THAT A.D.F. AND G. IS MORE SUITED TO MANAGE
THE NELCHINA PUBLIC USE AREA THAN DNR, AND THAT THE AREA SHOULD
BE CLOSED TO PUBLIC SALES UNDER STATE LAND DISPOSAL LAWS. INCLUDE
"WILDLIFE" TO BILLS TITLE. DEVELOP COMPREHENSIVE MANAGEMENT PLAN.
THANK YOU!

TO: ALL LEGISLATORS

FROM: BOB HUNTER
2015 SHEPERDIA DRIVE
ANCHORAGE, ALASKA 99508
HOME NO.: -276-8134
WORK NO.: 276-2761

RE: SB 35 - NELCHINA RECREATION AREA

THE ALASKA SPORT FISHING ASSOCIATION STRONGLY RECOMMENDS IMMEDIATE PASSAGE OF SB 35 (NELCHINA CARIBOU HERD). ACTION IS NEEDED NOW ON THIS AND HB 93 TO PRECLUDE ULTRA EXPENSIVE BUY BACKS IN FUTURE YEARS DUE TO LACK OF FORESIGHT TODAY.

APR 23 1985

Alaska Center for Family Medicine

4045 LAKE OTIS PARKWAY, SUITE 205 • ANCHORAGE, ALASKA 99508 • PHONE: (907) 276-1170

Robert J. Bosveld, M.D. April 16, 1985
Family Practice

C. Jerry Little, M.D.
Family Practice

Tryon S. Wieland, M.D.
Family Practice

Peter Mjos, M.D.
Family Practice

Mary Ann Foland, M.D.
Family Practice

Senator Arliss Sturgulewski
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

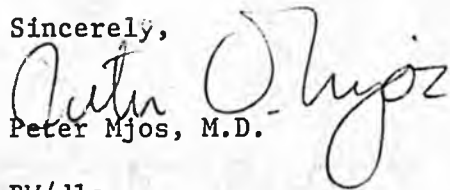
Dear Senator Sturgulewski:

I strongly support Senate Bill 35, designating the Nelchina Public Use Area. This is important legislation for all Alaskan residents, but particularly for those of us in the Anchorage bowl and the Matsu Borough, as such valuable land is rapidly shrinking and rapidly becoming less accessible to all of us. One major concern in such an area would be that mining activity be stringently regulated to protect the inherent wilderness and wildlife qualities in this area.

I also strongly urge your support of House Bill 93, establishing the state Recreational Rivers System. The Susitna area plan has made many pertinent recommendations. Certainly, the five rivers specifically named in that plan are worthy of inclusion. Again, it is mandatory that mining activity be stringently controlled, if not totally excluded in order to assure ongoing fish and wildlife habitat preservation, as well as all the recreational values contained therein.

Thank you for your attention.

Sincerely,


Peter Mjos, M.D.

PM/dls

APR 23 1985

Hrg

HAWLEY
RESOURCE
GROUP, INC.

April 19, 1985

The Honorable Senator Arliss Sturgulewski
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: SB 35, Nelchina Public Use Area

Dear Arliss:

In response to your comments on the Nelchina Public Use Area at the Republican Women's Club teleconference, I wish to point out some of my concerns. SB 35 is inconsistent with the Susitna Area Plan, which has taken a long and costly three years of compromise to develop. Some of the areas of inconsistency are as follows:

1. Management Intent

The intent of the Susitna Area Plan is clear. A quotation from page 377 of the Susitna Area Plan indicates without question the management intent for the Nelchina area: "The simplest explanation of the overall management intent for this area is that it is to be maintained in public ownership (land sales are prohibited) and be managed for three major purposes: to protect fish and wildlife resources, to provide opportunity for recreation including hunting, fishing, and other uses of fish and wildlife resources, and to permit exploration and development of the mineral resources."

And, from page 398: "Mining presently occurs throughout much of the 2.5 million acres in the Nelchina Public Use Area. The plan's proposals for legislative or administrative designation would leave the area open to mining and allow for its continuation as one of the area's primary uses."

A careful reading of SB 35 indicates that "public use" is really secondary to habitat protection. If we are creating a wildlife refuge, let's be honest and call it that. Hunting, fishing, motorized access, and resource development, the commonest public use of most Alaskans, has been relegated to a secondary role by this bill.

7011 Old Seward Hwy.
Anchorage, Alaska 99502
(907) 349-4673

The Honorable Senator Arliss Sturgulewski

April 19, 1985

Page 2

2. Acreage

The central calving area is approximately 1 million acres, but SB 35 addresses equally 2.3 million acres. The Susitna Area Plan recommended that "only the area where the majority of calving occurs (Subunit 2B) is recommended for near-term designation" (page 378).

Incidentally, did you really say what was quoted in the Anchorage paper on April 18th that 2.3 million acres was a lot of land to leave open to multiple use?? A lot of people are curious about that one. Is not Alaska's economic base supposed to depend upon its resources and, in turn, upon multiple use management? I am sure that was a misquote.

3. Management Authority

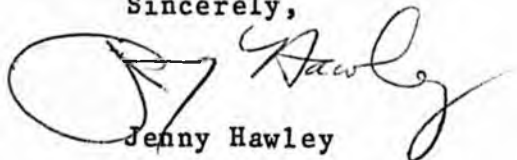
The Susitna Area Plan states on page 378: "The Department of Natural Resources may, after consultation with the Department of Fish & Game, adopt regulations governing the public use of the area." And, further: "The Department of Natural Resources shall, after consultation with the Department of Fish and Game, develop a land use plan . . ." (emphases added).

SB 35 requires the concurrence of Fish and Game on a management plan. There is a significant difference. With this wording, we would be making Fish & Game a land manager as well as a fish and wildlife manager, thus usurping the authority of DNR.

These concerns outline only part of my alarm at the rapid rate of withdrawals from true multiple use of state land. Other legislative proposals are just as scary--just not as huge as Nelchina.

Thank you for taking the time to join the Republican Women's Club at an extremely busy time. It was a very valuable exchange for our members.

Sincerely,



Jenny Hawley

JH/skg

cc: Senator Faiks
Senator DeVries
Senator Halford

MAR 1 1985

Star Route B, Box 7383
Palmer, Alaska 99645
Feb. 26, 1985

Senator Arliss Strugelewski, Chair
Senate Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Strugelewski:

I am requesting that your committee assure that Sponsors Substitute Senate Bill 35, "Nelchina Public Use Area" be designed to permit the use of all terrain vehicles, motor boats, aircraft, horses, etc. in providing access to the proposed Public Use Area. The area has traditionally been used for mining and hunting and the largest portion of the area would be unduly restricted if access by motorized vehicles was prohibited since there is only very little road access to the area.

Sincerely yours,

Robert N. Couch
Robert N. Couch

MAR 7 1985

Box 1800
Seward, AK 99604
March 4, 1985

Greetings:

I am writing in regards to SB 35 & HB 98 offering support of both. I support the designation of the Nelchina public use area, and would like all 2.3 million acres protected in order to take in necessary caribou winter range as well as the many other fish & wildlife & recreational values of the area. I support the protection of fish & wildlife habitat & populations, & public uses of those resources, as the primary purposes of the designation, with the Dept. of Fish & Game as the lead management agency. Mining should be carefully regulated so as to minimize adverse impacts on the area's primary values.

To provide necessary access to those who cannot afford to fly in, the boundaries should be brought down to approximately the Glenn Hwy., as they were for the Matanuska Valley Moose Range. This adds very little acreage, while it improves access tremendously, & it will have virtually no effect on private lands, since they are not included in the area.

I support HB 93 establishing a state recreational rivers system. The upper Little Susitna River, where most whitewater boating use is concentrated, & which is important for the maintenance of water quality, should be included in the system. The 5 rivers recommended by the Susitna Area plan should be designated. Additional rivers that might have other important values besides their fisheries, and that might be more accessible by road, should be included.

The mining exclusion is essential--witness the mud in Birch Creek and the substantial scenic degradation along the Resurrection pass and Crescent Creek trails. Gravel extraction & logging should also be prohibited within these narrow corridors to protect hiking, hunting, & other uses that people will want to enjoy in conjunction with fishing or floating. I support the protection of both natural values & primitive uses in the corridors, as well as more intensive recreational activities.

Sincerely,



Judith Gravec

March 2, 1985

MAR 7 1985

Dear Legislatures,

The establishment of the Talkeetna Mountains, Uereka and Lake Louise Management area for all Alaskans would be greatly appreciated.


The only area with large amounts of game, fish and waterfowl for dinner tables in the Southcentral accessible by boat, car, foot and aircraft is the Nelchina area. Protection is a must for this area.

With enhancement of this area many people should not have to fish and hunt in outlying areas and compete with local residents for fish and game.

I am in favor of Substitute bill SS 35 sponsored by Senator Kertulla. The management of the area should be by The Alaska Fish and Game Department in concurrence with the Department of Natural Resources. The area should consist of the full 2.3 million acres with no land disposals. Also, mining should be allowed where compatible.

I have personally visited this country yearly for the past 25 years. What a gift we could create for future Alaskans.

Thankyou,


Warren E. Olson

President
Foundation for North American Wild Sheep,
Alaska Chapter

Senator Arliss Sturgulewski
Alaska State Legislature
Juneau, Alaska

March 3, 1985
MAR 7 1985

Dear Senator Sturgulewski,

I strongly support Senate Bill 35 designating the Nelchina Public Use Area. I would like to see all 2.3 million acres protected for the benefit of the Nelchina caribou herd and all the other fish and wildlife in the area.

Each year since I've lived in Alaska I've written a paragraph on my most memorable day in Alaska in my annual Christmas letter. I've enclosed the paragraph from my 1983 letter. It will explain why I feel strongly about this marvelous area and its splendid wildlife resources.

My most memorable day this year was one in late August in the Talkeetna Mountains. The clouds were low, covering the peaks and it had been raining off and on all day. We had hiked 6 or 7 miles--mostly uphill--with guns and packs on our backs and had hardly seen anything move. At about 4 o'clock we saw two wolves loping along in the distance. The only sound was the cold Black River rushing down the treeless valley. At about 6 o'clock I suddenly turned around and saw a rainbow and dancing through it down the valley a herd of thirty or forty caribou.....

cc:
Jay Kerttula
Adelheid Herrmann
Dick Shultz

Your constituent,

Bill Baker
7345 Foxridge Circle #1
Anchorage, AK 99502

MAR 7 1985

February 3, 1985


Senator Arliss Sturgulewski
Pouch V
Juneau, AK 998

Dear Senator Sturgulewski

This letter is to express my support of SB 35, which designates the Nelchina Public Use Area (NPUA), as well as supporting Senator Kerttula's bill that would protect the winter range of the Nelchina Caribou Herd in addition to the calving grounds. State lands need to be protected for fish and wildlife populations and habitat and public use of those resources and I hope we are beginning to move in this direction and away from state land disposal fever. It is critical that the winter range of the caribou herd be protected now; I feel the Susitna Area Plan falls short in this regard. So that fish and wildlife and recreational values be protected, mining will need to be closely and carefully regulated. It is appropriate for the Habitat Division of the Department of Fish and Game to play a lead role in the management of NPUA. Finally, to ensure access to a wide segment of the public, not just those who can fly in, the boundary of the NPUA should be the Glenn Highway.

I do hope you will consider my views and I am hopeful we are moving in a new direction with our state lands. We have to alter our present course if we are to maintain the values that we Alaskans cherish. I hope I will hear from you on this matter.

Sincerely,



Marilyn Houser
PO Box 6455
Anchorage, AK 99502

cc: Representative Adelheid Herrmann
Representative Dick Schultz

MAR 7 10 25
3700 Ougon Dr.
Anchorage, Ak 99503
March 3, 1985

Senator Arliss Sturgulewski
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski,

I am writing you to urge you to pass SB 35-
which would designate the Nelchina Public Use Area.
It is very important that we protect this valuable and
accessible piece of state land now. As an Anchorage
resident and wilderness user, I am very concerned
about the loss of prime wilderness areas near
heavily populated areas of the state. I urge you to
support protection of all 2.3 million acres (the Kertulla
proposal) not just the core calving area, as recommended
in the Susitna Area Plan.

Thank you for your attention to this important
bill. I will be watching what happens to it closely, and
I hope to hear from you regarding this bill.

Sincerely,
Jane Gray