

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

4326 SRES HB 287 - HB 312 1205



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

May 19, 1983

MEMORANDUM

TO: Representative John Cowdery

FROM: David Teal *DT*
Research Staff

RE: MAPCO Contract for Alaska Royalty Oil
Research Request 83-158

You asked this agency to review the contract for the sale of State royalty oil to the North Pole Refinery (MAPCO) and to describe significant details of the contract, particularly as they differ from provisions of the proposed Tesoro and Chevron contracts. This memorandum responds to your request.

The contract in question was originally with the Earth Resources Company of Alaska, who operated the North Pole refinery until it was sold to MAPCO in 1981. The contract was approved by the Legislature in May of 1978. It provides royalty oil from the Prudhoe Bay Unit to the North Pole refinery through the year 2003. Some specific provisions of the contract are discussed below.

Quantity of Oil

The contract specifies that no more than 15 percent of the State's share of oil from the Prudhoe Bay leases is to be sold to MAPCO. Note, however, that 15 percent of current production levels is about 28,000 barrels per day while MAPCO is actually receiving about 35,000 barrels of royalty oil per day. This apparent discrepancy can be explained by a careful reading of sections 2.1.1 through 2.1.3. Section 2.1.1 allows MAPCO to nominate additional oil from the Prudhoe Bay leases as long as "such oil is unobligated and available." Section 2.1.3 limits the total amount of oil supplied by the State under this contract to 35,000 barrels per day. In addition, section 2.1.2 of the contract gives MAPCO an option on royalty oil from other leases (including future discoveries) so that the refinery can nominate up to 35,000 barrels of oil per day through 2003.

Representative Cowdery
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NOTE * INTERESTING CONSIDERATION. MAPCO HAS
STATED IN WRITTEN TESTIMONY THAT THE PRICE
THEY PAY FOR ROYALTY IS HIGHER THAN WHAT
THEY COULD BUY IT FROM PRODUCERS

The North Pole refinery is not only purchasing the full 15 percent share of Prudhoe Bay oil to which it is entitled, but is also exercising its option to purchase an additional 7,000 barrels per day to bring its total purchase to the contractual ceiling of 35,000 barrels per day. According to the contract, North Pole could nominate as little as 5,000 barrels per day without paying a penalty or endangering the contract. The continued high level of nomination is probably due to a combination of uncertainty in oil markets and the 7-month lag from date of notification of a change in volume to implementation of that change. * NOTE

The fixed volume provision (35,000 barrels per day) in the MAPCO contract could allow the North Pole refinery to claim nearly half of all State royalty oil by 2003, when the contract terminates. (Unless additional discoveries are made, the State's share of crude oil is expected to decline to about 75,000 barrels per day in the year 2000.) The proposed Tesoro and Chevron contracts specify a proportion of Prudhoe Bay royalty oil (13.867 percent and 9.6 percent, respectively) so that the amount of oil delivered to them would decline as production from Prudhoe Bay declines.

Price of Oil

As you know, the proposed Tesoro and Chevron contracts call for a 30¢ per barrel premium over the in-value price of oil. North Pole does not pay a premium for royalty oil, but it does pay the "Exhibit B" price, which is about 50¢ per barrel above the average in-value price.¹ The price differential is due to different ways of making the price of royalty oil subject to resolution of the Almerada Hess litigation. The MAPCO contract specifies that the Exhibit B price will be paid, with the differential refunded if the State loses the case. The Tesoro and Chevron contracts specify that the average in-value price will be paid, with additional payments to be made if the State's arguments prevail.

¹The Exhibit B price for a hypothetical Company X is defined as the higher of 1) the average price received by all producers including Company X and 2) the average price received by all producers except Company X.

Residual Oil

One of the more controversial aspects of the MAPCO contract is the disposition of residual oil. The North Pole refinery currently reinjects its residual oil into the pipeline. North Pole pays a fee for degradation of the virgin crude in the line and reclaims the oil at Valdez, where it is indistinguishable from any other oil that comes through the pipeline. ~~Section 2.4 of the contract gave the State an option on the residual oil, but the option expired (unused) on September 1, 1978.~~ The Tesoro and Chevron contracts would give the State an option on the residual oil for the life of the contracts.

Other Provisions

The 25-year term of the MAPCO contract, the lack of a premium over the in-value price, the option on future reserves, and the lack of a claim on residual oil have been discussed above. Other points of interest are briefly discussed below.

- The contract ~~fails to impose in-state processing requirements.~~ The proposed Tesoro and Chevron contracts specify that all royalty oil must be processed in-state and that 32 percent and 34.44 percent, respectively, of royalty oil must be refined into usable products.
- The contract ~~fails to restrict exports~~ of the petroleum products. The proposed Tesoro and Chevron contracts specify that the refiners must use their best efforts to market all royalty oil products in Alaska and require the purchasers to submit reports on performance. The MAPCO contract merely states that the refinery will notify the Commissioner of the Department of Natural Resources if products are exported.
- The contract does not impose a reservation fee if North Pole elects to claim less than the maximum quantity allowed by the contract. The proposed Tesoro and Chevron contracts specify that the purchaser shall pay a fee of .75 percent of the purchase price (about 15¢ per barrel at current prices) for each barrel difference between the maximum quantity and the quantity actually nominated.
- The contract has a much weaker security agreement than the proposed Tesoro and Chevron contracts. MAPCO is required to grant a security interest in all oil delivered or to provide security in the form of a bond. Under the proposed contracts, Tesoro and Chevron must furnish an irrevocable letter-of-credit that can be drawn upon by unilateral action of the State.

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- The contract does not include a provision on disagreements. Section 23 of the proposed Tesoro and Chevron contracts says that, in the event of disagreement over the meaning or application of terms or conditions of the contract, the purchaser shall agree to accept the findings of the Commissioner of Natural Resources unless there is clear evidence for a contrary interpretation.

The conclusion of our review of the MAPCO contract is that it has significant disadvantages (to the State) relative to the proposed Tesoro and Chevron contracts. In addition to the differences listed in this section, the ~~term~~ of the MAPCO contract is ~~longer~~, the price the State obtains for its royalty oil is lower, it gives options on ~~future oil discoveries~~, and it gives the State no option on the residual product of the refinery. ~~There is some possibility that these provisions could be renegotiated if the North Pole refinery wished to expand and if additional supplies of royalty oil were required to support that expansion.~~

* * *

I hope this review of the MAPCO contract is useful in your deliberation of the proposed contracts for royalty oil. If you have additional information requests, please contact the agency.

DT

TESTIMONY

BY DIRECTOR, DIVISION OF OIL & GAS

TO HOUSE RESOURCES COMMITTEE & HOUSE SPECIAL COMMITTEE ON OIL & GAS

ON HB 287

ROYALTY OIL CONTRACT WITH GOLDEN VALLEY ELECTRIC ASSOCIATION

MARCH 20, 1985

Thank you Mr. Chairman. For the record, I'm Kay Brown, Director of the Division of Oil and Gas for the Alaska Department of Natural Resources. With me is Assistant Attorney General Steve Porter. I appreciate this opportunity to discuss the proposed long-term royalty oil contract with the Golden Valley Electric Association, also known as GVEA.

Contract Terms

The proposed contract would sell about 2.6% of the state's daily royalty oil from Prudhoe Bay Unit -- currently about 5,000 barrels a day -- to GVEA for 10 years.

The contract price is the monthly volume weighted average of the producers' current reported netback prices, plus field costs, plus adjustments for the final outcome of the Amerada Hess litigation, plus a 30¢ premium, with a price reopener in July 1987 and every two years thereafter.

I would refer the committee to the one-page sheet of background information we have provided on SB 232/HB 287, which summarizes the major

provisions of the contract.

Background

Golden Valley Electric Association is a cooperative which generates electricity for sale to its members. It uses a variety of fuels to generate the electricity, including turbine fuel. Some of the turbine fuel GVEA purchases is refined directly from royalty oil purchased under the cooperative's present state contract. GVEA purchases additional turbine fuel directly from the Mapco refinery.

Under its present and former state royalty oil contracts, GVEA assigns the royalty oil to Mapco, which processes the oil at its North Pole Refinery and sells Golden Valley turbine fuel at a discount. The discount on those purchases amounts to about \$550,000 annually in savings to GVEA. When measured from the consumer's perspective, this discount translates to a savings of about 1.5% on the average consumer bill.

History of GVEA Sales and Negotiations

I would like to briefly give the committee some history on the state's royalty oil sales with Golden Valley Electric Association. The first contract with Golden Valley was signed in April 1977, shortly after establishment of the Royalty Oil and Gas Development Advisory Board and the adoption of new statutory procedures governing royalty oil sales. Golden Valley did not commence taking under the contract until June 1981, when it began purchasing 5,000 barrels per day and assigning it to Mapco.

That contract expired in June 1984.

In November 1982, well in advance of the expiration of Golden Valley's original contract, GVEA requested a 10-year extension of the contract. No action was taken by the outgoing administration in 1982, and the new administration began negotiations with Golden Valley in March 1983. In November 1983, the department published a public notice of its intention to adopt a new contract with Golden Valley. The royalty board reviewed the contract in December 1983, and that review revealed specific concerns by both the public and the board members with respect to the state's option on residual oil and the relationship between Mapco and GVEA. In view of those reservations and the limited time for further negotiation, the long-term GVEA contract was not presented for legislative approval in 1984. Instead, an interim contract not requiring legislative approval was put into effect pending contract revisions responsive to the issues raised at the meeting of December 7, 1983. That interim contract expires June 30, 1985.

Intermittent negotiations were held on the proposed long-term contract during 1984. We had planned to complete negotiations so that approval legislation for the long-term contract could be introduced on the first day of the 1985 session.

Our timeline called for a preliminary contract and findings to be completed and a preliminary notice to be published in early October 1984. The final contract and findings were to be available November 16, 1984, Royalty Board review was scheduled for December 7, 1984, and approval

legislation was to be introduced on the first day of the session. Due to denomination deadlines, it was apparent to all the parties that if legislative approval did not occur by March 29, 1985, oil deliveries would have to be interrupted.

During September 1984, I informed Golden Valley and Mapco of the time pressure under this timeline, and had numerous negotiation sessions with representatives of both Golden Valley and Mapco. Draft agreements were exchanged, and we believed that agreement had been reached in early October 1984. However, at the conclusion of a negotiation session on October 9, 1984, Bert Sharp of Golden Valley stated his severe reservations about Golden Valley's liability for retroactive adjustments to the royalty oil price based on the Amerada Hess litigation. His primary objection was that as a regulated public utility, Golden Valley could only pass on to its customers retroactive adjustments for a one-year period. Amerada Hess adjustments for purchases older than one year could not be passed on to Golden Valley's customers, and would cause Golden Valley severe financial difficulty. Mr. Sharp proposed that the state charge an increased price premium but that it waive Amerada Hess adjustments. This price term offer was unacceptable to the state, and we suggested contract terms that would require Mapco to pay the Amerada Hess adjustments.

Negotiations stalled for almost two months at this deadlock. However, on November 23, 1984, I wrote to Bert Sharp and stated that an agreement among the state, Golden Valley and Mapco looked unlikely. I suggested commencing negotiations towards a contract between Golden Valley and the

state, without any assignment of the oil to Mapco. Negotiations resumed immediately, and on November 29, 1984, an agreement was reached on the terms now found in the proposed long-term contract. We immediately prepared findings and a final contract, and worked to get the contract before the royalty board and the legislature as soon as possible. However, due to the negotiation stalemate, legislation approving the long-term contract could not even be introduced in the legislature until mid-March 1985.

Unless a new contract with Golden Valley is approved prior to March 29, 1985, - or unless the present contract is extended - we will denominate the oil and return it to in-value. CSSB 152 would give the commissioner the authority to extend the existing Golden Valley contract for up to three months to avoid a lapse in taking by GVEA during the summer of 1985.

I want to briefly discuss two concerns that have been raised with the contract that were originally identified at the royalty board meeting of December 1983.

Consumer Benefits

The sale is premised on providing benefits to Alaska consumers. These consumer benefits depend on GVEA's assignment agreement with Mapco, which provides turbine fuel at a price lower than what GVEA would otherwise pay. Under GVEA's current contract, the state is unable to enforce the degree of advantage afforded to GVEA since that agreement is between GVEA and Mapco only.

Exhibit A to the new contract is a three-party agreement signed by the state, GVEA and Mapco. Exhibit A recognizes existing agreements between GVEA and Mapco. In Exhibit A, the state consents to those agreements so long as they are not modified to reduce the benefits to GVEA's consumers. The state retains the option to terminate the contract should the relationship between GVEA and Mapco change materially.

Thus, the modest consumer benefit that I described earlier will continue over the life of the contract, or the state will have the option to cancel the contract.

Return Oil

A second issue of concern involves the return oil provision of the contract. The Mapco refinery, because of its location near the Trans Alaska Pipeline, is able to reinject the heavy and lightest ends of the barrel which are not converted into products back into the pipeline. This so-called "return oil" then reemerges as whole oil at Valdez, with Mapco paying a \$.10 per degree quality bank differential penalty.

We did negotiate an option to purchase the return oil into the new GVEA contract. However, although the option to purchase return oil is embodied in Section 3.4 of the new GVEA contract, the state has agreed in Exhibit A that we will not exercise that option in return for Mapco paying Ameraga Hess adjustments on the portion of the royalty oil that is converted into turbine fuel used by GVEA.

As I mentioned a moment ago, the negotiations were deadlocked for several months, and foregoing the return oil option was a concession we made to break the deadlock.

Refinery Profits

Another issue of concern raised by legislators during consideration of the three-month extension bill, CSSB 152, involves the amount of profits made by Mapco off of the Golden Valley contract.

For a number of reasons, it is difficult to calculate the profitability of a refinery based on information in the public record. Although the Department of Natural Resources has access to some confidential information provided by Mapco, we are obligated to hold this information confidential under AS 38.05.035 at Mapco's request. However, considering those constraints, we have attempted to provide some general information about refining profits.

Mapco's refining profits were examined in the February 1983 report entitled Alaska Petroleum Product Pricing prepared for the Senate Resources Committee. That document was authored by Messers. Pernela and Delong, both of whom are former employees of North Pole Refining. As can be seen in the report and the responses of Mapco and Tesoro to that document, the profitability of a refiner is nearly impossible to infer without access to certain cost data which is normally held confidential. This has proven true even though the authors, as former employees of

Mapco, may have had access to such data. This information gap largely accounts for the difference in the return to investment calculated in the report - 46% - and Mapco's stated return to investment of 15% to 17% (see Mapco's letter to Sen. Fahrenkamp of April 8, 1983).

Like most refiners, Mapco does not make available to the public separate accounts of its various operations such as the North Pole refinery. While Mapco's overall profitability is stated in its annual reports, the profits of a particular refinery cannot be deduced from those reports. The operating costs of a refinery are not normally available to the public since such knowledge would be of considerable advantage to a competitor.

For this reason Messers. Pernela and DeLong were forced to rely on a variety of unsatisfactory proxy figures which included the original cost of the North Pole refinery, a supposed cost of capital, and the adjusted operating costs of refiners in the continental United States, among other things. These shortcomings enabled Mapco to handily rebut the report by mentioning such items as investment which occurred after the initial construction, interest during construction, the original investment risk, the irrelevance of operating costs in other parts of the U.S. and the vagaries of the federal crude oil entitlement program, which was in effect over part of the study period.

Although Mapco's apparent markup can be found by comparing their wholesale prices with the acquisition cost of crude oil, a net profit per barrel cannot be arrived at without knowing all the capital and operating costs of the refinery as well as the method of amortization. Mapco has not

volunteered this information to date.

Summary

In summary, Mr. Chairman, this contract is intended to provide a modest amount of consumer benefit to the Alaska citizens living in the Interior and served by the Golden Valley Electric Association cooperative, and also to provide the state with a market price for the royalty oil. I believe that the state's interest is served by pursuing this alternative, compared to the alternative of not making a sale and leaving the oil in-value. It could be argued that this contract does not maximize the value of royalty oil relative to what could be obtained by selling the oil competitively. However, the statutes do not require competitive sales and, in fact, the statutes clearly contemplate negotiated sales that provide ancillary benefits from using the royalty oil within the State of Alaska. I think you could view this contract as maintaining the status quo between the in-state refiners, as it does not increase Mapco's benefit relative to the present situation. In fact, Mapco's benefit is slightly decreased under the new GVEA contract.

Mr. Chairman, I believe this contract complies with all requirements of the statute and the regulations, and that it is consistent with the state's policy of obtaining market value for its royalty oil.

For these reasons, the administration supports the contract and we urge your approval of HB 287.

Sam Murray, a petroleum economist on my staff, is standing by in Anchorage

to assist us with answering any questions the committee may have. That concludes my formal remarks, Mr. Chairman. Thank you.

1623K

TESTIMONY BY DIRECTOR, DIVISION OF OIL AND GAS
TO HOUSE RESOURCES COMMITTEE AND
HOUSE SPECIAL COMMITTEE ON OIL AND GAS
ON HOUSE BILL 287

ROYALTY OIL CONTRACT WITH
GOLDEN VALLEY ELECTRIC ASSOCIATION

March 21, 1985

Thank you Mr. Chairman. For the record, I'm Kay Brown, Director of the Division of Oil and Gas for the Alaska Department of Natural Resources.

Several issues and questions were raised at the hearing yesterday, and I'd like to provide the committee with some additional information on those points.

Many of the questions at the hearing yesterday centered on the benefits to be derived from the proposed contract -- what those benefits are and who receives them. Three parties would receive benefits -- the State, GVEA, and Mapco.

I'd like to briefly summarize those benefits as we perceive them, Mr. Chairman.

Benefits to the State of Alaska

The benefits to the State are described in our final finding of January 16, 1985. Under the statutes governing royalty oil and gas sales, the commissioner is obligated to maximize benefits to the citizens in a negotiated sale.

The price received is a benefit to the State. The State will receive a 30¢ premium above in-value, which makes this sale roughly equivalent to the Tesoro and Chevron royalty oil contracts approved by the Legislature last session. There is no price subsidy to GVEA, and to the extent that Mapco gets the oil, it pays more for this oil than it does for the oil it buys directly from the State.

Other benefits to the State are explained in detail in the final findings, but they include cheaper electricity rates for Fairbanks consumers, a dependable electricity supply, and protection of existing investments in the North Pole refinery and the utility's turbines.

Benefits to GVEA

GVEA's benefits come not from a reduced sale price, but from the reduced turbine fuel price Mapco gives GVEA on the turbine fuel Mapco produces from GVEA's royalty oil.

GVEA's benefit can be calculated by comparing two prices. Those prices are Mapco's general turbine fuel price to GVEA (which covers roughly half of GVEA's turbine fuel needs) and Mapco's reduced price to GVEA for turbine fuel processed from GVEA's royalty oil (which covers the other half of GVEA's turbine fuel needs). Specifically, the 1980 Petroleum Products Agreement

between GVEA and Mapco generally obligates Mapco to sell turbine fuel to GVEA at a price of Mapco's acquisition cost plus a processing fee. Mapco has requested that we keep that exact processing fee confidential. A second 1980 agreement between GVEA and Mapco obligates Mapco to sell GVEA turbine fuel processed from GVEA's royalty oil at a reduced processing fee. Mapco has also requested that we keep that exact fee confidential.

Although the exact processing fees charged by Mapco are confidential, GVEA manager Bert Sharp testified yesterday that the difference is between 5 and 6 cents a gallon. Multiplying that savings by 42 gallons per barrel, by 625 barrels per day, and by 365 days per year, GVEA achieves a yearly savings of between \$479,000 and \$575,000. In our final sale findings, our petroleum economist projected an annual savings to GVEA of approximately \$550,000.

This \$550,000 yearly savings translates into a benefit to GVEA's consumers of .1446¢ per kilowatt hour. (This number is obtained by dividing the \$550,000 yearly benefit by the 380,412,000 kwh that GVEA produces each year.)

Benefits to Mapco

The committee's third area of concern is the amount of benefits to Mapco under this contract. Mapco does benefit since it gets 87.5%

of each barrel, either as non-turbine fuel products or as return oil.

The profitability figures for Mapco shown on the chart prepared by staff that you received yesterday are basically accurate. However, the six-million dollar gross profit figure does not include the expenses Mapco incurs in refining the oil.

A more relevant comparison could be made by looking at the price that Mapco would otherwise have to pay the producers to obtain oil if it did not receive royalty oil on assignment from GVEA. For example, the January, 1985 Pump Station 1 in-value price is \$16.90. Thus Mapco's Pump 1 price would be \$17.20. By way of comparison, Pump 1 prices in January were reported as \$18.13 for British Petroleum, \$17.16 for Phillips and \$16.95 for Sohio. Thus, it is not clear that Mapco would pay less for State royalty oil than it would for producers oil.

A similar comparison can be made with regard to the return oil. The value of the return oil to Mapco at Valdez would roughly be the Pump 1 price of \$17.20, plus tariffs of about ~~\$6.01~~^{\$6.10}, plus a \$1.22 quality differential penalty, for a Valdez price of \$24.52. By comparison, Valdez prices for producers oil would be \$24.14 for BP, \$23.17 for Phillips and \$22.96 for Sohio. Again, this does not appear to be a windfall for Mapco.

To the extent that committee members feel that Mapco is getting a "good deal" from the State, I would suggest that the "good deal" does not come from this contract. Rather, Mapco's competitive advantage comes from Mapco's own royalty oil contract, which contains terms significantly more attractive than those found in Alaska's other royalty oil contracts, and from Mapco's geographical location, which insulates it from the competition of other refiners.

Since the information available to DNR concerning Mapco's profitability must by statute be held confidential, I would suggest that your specific questions about the relationship between GVEA and Mapco, and about Mapco's profits from this sale, be addressed to either GVEA or Mapco.

I'd like to correct one number that I gave to the committee yesterday. The amount of return oil barrels from the GVEA contract is roughly 3,300 bpd, rather than 1,500 to 1,600 bpd.

Thank you, Mr. Chairman. That concludes my remarks.



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Signature of Camera Operator

11/24/89
Date

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CS for House Bill No. 306 (Resources):

"An Act making a special appropriation to the Department of Commerce and Economic Development for the promotion of forest products and providing for an effective date."

Department Position Statement: The Department of Commerce and Economic Development supports the Committee substitute for House Bill 306, making a special appropriation to the Office of Forest Products for the promotion of Alaskan forest products. This bill responds to the broadly recognized need for a statewide forest products market development program. During this time of declining oil revenues, it is more important than ever to promote the economic development of our timber resources.

Background: The Office of Forest Products was formed in September 1984 as an advocacy office for the forest products industry within the economic development arm of the department. The office operates with a staff of two and budget of under \$200,000. Objectives of the office include:

- * To act as a facilitator in market development for Alaska's wood products.
- * To promote a business climate which affords an economically viable industry with a competitive market position.
- * To aid industry in forming a statewide forest products association and market development strategy.
- * To promote better knowledge and understanding of Alaska's forest industry and the products produced.

Last Spring, the office formed a Market Advisory Committee consisting of private operators statewide. The committee has functioned to determine areas of marketing activity that can be pursued for the common good of the industry and plan how industry can better organize in order to deal with market development, communications, and government relations. The committee has also defined specific market development activities in which they would like the Office of Forest Products to participate.

Program: The Market Advisory Committee would serve as an important advisory ingredient in the planning and implementation of the market development and promotion program.

The program would include activities such as:

- Initiation of a program to establish a certified lumber grading system.
- Generic advertising.
- Publication and translation of technical species and product brochures.
- Sample shipments of wood products to new potential markets.
- Trade Show participation.
- Communication and contact with architects, contractors, municipalities, State agencies, and other users.
- Facilitate and participate in trade missions.
- Economic research of the markets.

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- Facilitate and participate in trade missions.
- Economic research of the markets.

Benefits: The State has two major reasons for being involved in supporting the timber industry through these kinds of activities. The first relates to the State's interest in the social and economic well-being of the State as enhanced by economic diversification. The chart below shows the direct employment benefit per million board feet.

The second reason relates to the State's role as a major timberland owner. The revenue generated in the form of stumpage fees from State timber sales can be significant.

Conclusion: The State has an important role to play as an active participant and facilitator in the development of Alaska's timber resources. A dedicated resource base for timber production and a market development program provide the organized process needed to move us toward our goal to strengthen and expand a statewide forest products industry. The department fully supports the appropriation provided in HB 306 to help attain this goal.

Jobs Created Per Million Board Feet

	<u>Workers per MMBF</u>
Logging	2.4
Sawmilling green lumber	1.2 to 1.7
Sawmilling cants	1.0
Sawmilling dried lumber	2.0 to 2.3
Remanufacturing lumber	7.9 to 8.3
Pulp	2.4
Plywood	5.2

The figures are from U.S. Forest Service employment studies.

Loren H. Lounsbury
Loren H. Lounsbury, Commissioner
Department of Commerce & Economic
Development

Date: 3 | 28 | 86

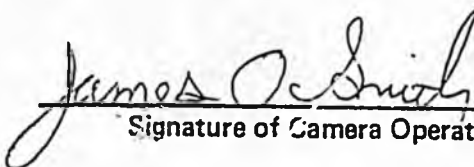
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Thyes Shaub, Director
Office of Forest Products

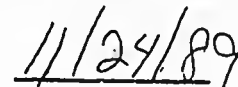
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Signature of Camera Operator


Date

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Senate Committee on Resources

M E M O R A N D U M

May 6, 1986

TO: All Members
Senate Resources Committee

FROM: Staff, ^HSenate Resources Committee

RE: HB 312 Establishing the Dude Creek Critical
Habitat Area

HB 312 establishes the Dude Creek Critical Habitat Area near Gustavus, Alaska. The primary purpose of this designation is for the protection of the sandhill cranes.

The habitat area shall be managed under a plan prepared by the Department of Fish and Game in consultation with the community.

There are no mental health lands contained in SCS HB 312 (C&RA). There are 640 acres of state land contained in the C&RA CS in two separate parcels (see map).

There is a zero fiscal note.

Enclosures:

- Fiscal note
- House Letter of Intent
- Memo from Rep. Goll with map
- Letter from DNR with description
- Briefing paper from Rep. Goll
- Bill analysis from Fish and Game
- Letters of support for HB 312

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: 5/6/86

REQUEST

Bill/Resolution No. : HB 312
 Title : Establish Dude Creek CHA

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Land and Water Management

Sponsor : Goll, Duncan, MM Miller, Binkley
 Requestor : Senate Resources
 Date of Request : 2/11/86

Components : Public Use

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

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

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

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

All Mental Health lands have been deleted from the bill. As a result no funds are necessary for appraisals.

Prepared by : Michael E. Vediner
 Division : Commissioner's Office

Phone : 465-2400
 Date : 5/6/87

Approved by Commissioner : *Mms D Spry*
 Agency : Natural Resources

Date : 5/6/87

Distribution (by Agency preparing fiscal note):

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

CR
4/10

HB 312

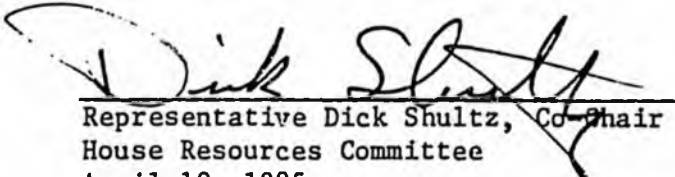
DUDE CREEK CRITICAL HABITAT AREA

Letter of Intent

It is the intent of the Legislature that surface vegetation and soils be maintained to preserve the wetlands nature of the critical habitat area and provide protection to migrating lesser sandhill cranes.

In creating the Dude Creek Critical Habitat Area, the Legislature also intends that hunting, fishing and trapping activities will continue to occur in accordance with harvest regulations as established by the Boards of Fisheries and Game. The following public uses of the area are recognized as historic and traditional: wildlife viewing, firewood harvesting, public access, hiking, berry picking, and grazing. It is the intent of the Legislature that the listed uses will continue unless they are determined to be incompatible with the purpose for which the area is established. The Department of Fish and Game will conduct specific fact finding, including public hearings in Gustavus, prior to making final determination of the compatibility of the listed uses during various times of the year.

The Department is to consult with the community of Gustavus in the preparation and implementation of a management plan for the Dude Creek Critical Habitat Area. In the event that the community forms a local fish and game advisory committee or a critical habitat advisory group, the Department will work closely with those entities in preparation of the plan.


Representative Dick Shultz, Co-Chair
House Resources Committee
April 10, 1985



Official Business

Alaska State Legislature

House of Representatives

Special Committee on Fisheries

Pouch V
Juneau, Alaska 99811

Phone
(907) 465-224

M E M O R A N D U M

April 7, 1986

TO: Senator Edna DeVries
Chairman
Community and Regional Affairs Committee

FROM: Representative Peter Goll *Peter Goll*

SUBJECT: Proposed Amendment to CSHB 312 (Fin)

Page 2, line 2:

Section 2: [W1/2] NW1/4

Page 2, lines 3-7:

Delete all language

Comment: This amendment removes all Mental Health Trust Lands from the Dude Creek Critical Habitat Area. The remaining 640 acres of general grant lands are contained in two separate parcels.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

APR 22 1986

April 21, 1986

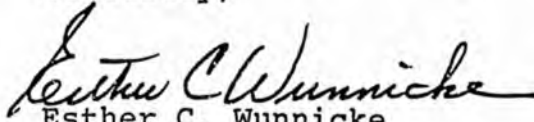
The Honorable Edna DeVries
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator DeVries:

At your request I have enclosed legal descriptions for both the mental health lands and non-mental health lands within the proposed Dude Creek Critical Habitat Area.

Please let me know if there is additional information I might furnish.

Sincerely,


Esther C. Wunnicke
Commissioner

cc: The Honorable Peter Goll
David Walker
Jim Gottstein
Tom Koester
Tom Hawkins
Salli Slaughter

Legal Descriptions for HB 312

Mental Health Land:

Township 40 South, Range 58 East, CRM

Section 2, SW $\frac{1}{4}$	160 acres
Section 3, All	640 acres
Section 9, All	640 acres
Section 10, All	640 acres
Section 11, W $\frac{1}{2}$, W $\frac{1}{2}$ NE $\frac{1}{4}$	400 acres
Section 14, Lot 3, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{2}$ SW $\frac{1}{4}$	323 acres
Section 15, All	<u>640 acres</u>
TOTAL	3443 acres

Non Mental Health Land:

Township 40 South, Range 58 East, CRM

Section 2, NW $\frac{1}{4}$	160 acres
Section 16, N $\frac{1}{2}$, SE $\frac{1}{4}$	<u>480 acres</u>
TOTAL	640 acres



STATE OF ALASKA
HOUSE OF REPRESENTATIVES

MEMORANDUM

March 6, 1986

TO: Senate Community and Regional Affairs Committee
FROM: Representative Peter Goll *Peter Goll*
SUBJECT: Briefing Paper for House Bill 312

DUDE CREEK CRITICAL HABITAT AREA

Location

Gustavus, Alaska

Land Status

There are no in-holdings; the parcel proposed for the critical habitat area is state-owned or selected. Much of the acreage is mental health lands; this issue is addressed in proposed amendments and letters submitted to the committee.

History

The residents of Gustavus have been working on the proposal for the past three years. The critical habitat status was selected after a careful review of the available land management options.

The concept was endorsed in a community-wide January, 1984, referendum by a 66-25 vote. A committee of resident citizens was formed to work with the Alaska Department of Fish and Game to develop proposed legislation.

The resulting legislation (House Bill 312) and accompanying letter of intent received the unanimous endorsement of the Gustavus Community Association on March 4, 1985.

Purpose

The wet meadow at the western edge of the community of Gustavus is a major resting area for the Pacific population of Lesser Sandhill Cranes during their annual migration between western Alaska and southern California.

Research shows that half or more of the entire Pacific population of Lesser Sandhill Cranes uses the Dude Creek meadow during the September and April-May migratory periods. The adjacent national park is little used by the cranes.

The crane habitat at Gustavus has been greatly reduced in recent years by development and natural reforestation. The proposed critical habitat area includes the largest remaining block of appropriate habitat in the area. The wet meadow favored by the cranes is very susceptible to alteration by draining. The birds also are very easily disturbed by human presence.

The proposed legislation requested by Gustavus is designed to give the Alaska Department of Fish and Game authority to manage human uses of the Dude Creek wet meadow to protect the habitat needed by the cranes. The legislation and letter of intent also make it clear that existing compatible human uses will be accommodated. The letter of intent also gives ADF&G clear direction to work in close cooperation with Gustavus residents in drafting a management plan.

Handwritten initials/signature



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER HB312	SPONSOR Goll, Duncan, Miller, Binkley
DEPARTMENT POSITION Strongly Support			
PREPARED BY Habitat Division/Debra Clausen	DATE 4/2/85	COMMISSIONER'S SIGNATURE <i>Orin Cellanowich</i>	DATE 4-5-85

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL Community of Gustavus
ORGANIZATIONAL SUPPORT FOR BILL Community of Gustavus	ORGANIZATIONAL OPPOSITION TO BILL None known

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The purpose of establishing the Dude Creek Critical Habitat Area is to protect and enhance the wet meadow habitat that is the key roosting area for migrating lesser sandhill cranes, to protect lesser sandhill cranes, and for the continued public use and enjoyment of the area.

ANALYSIS OF BILL/PROGRAM EFFECTS

1. Establishes the Dude Creek Critical Habitat Area.
2. Identifies the purpose for which the area is established.
3. Provides for the management of the Dude Creek Critical Habitat Area including the development of a management plan.

AMENDMENTS PROPOSED

None

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Gustavus Community Association

P.O. Box 62
Gustavus, Alaska 99826

February 28, 1986

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

Dear Senator Sturgulewski,

As you are aware, the bill for an act to establish the Dude Creek Critical Habitat Area (CSHB 312) is to be addressed March 6, at the Senate Community & Regional Affairs Committee meeting.

I would like to take this opportunity to encourage your support for this bill. The critical habitat designation for the "crane flats" in Gustavus is a dream which we hope to see reach fruition this session. It began as a grass roots movement to provide legal habitat protection for the sandhill cranes that roost here during migration. Frankly, this did not meet with general community approval. What developed through a process of negotiation and compromise was a proposal that does meet the needs and wishes of most people. For example, any previous use of this land, i.e. public access, hunting, firewood harvest, grazing, etc. is allowable and assured in the wording of this bill.

The community demonstrated majority support for this bill in January, 1984, in a referendum ballot polling every registered voter. The response was 66 in favor and 25 opposed. Last year the Gustavus Community Association endorsed the bill.

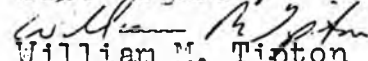
I strongly support the critical habitat designation for the following reasons:

- 1) it allows for continued existing uses
- 2) it was conceived within the community and developed in the spirit of compromise
- 3) this land classification is consistent with the developing economic theme in Gustavus, i.e. recreation, tourism and resource attractions. I sincerely believe that what appears as an intangible benefit now will manifest itself as economic stimulation for the community in the long run.

This bill offers Gustavus a promise of continued public access and enduring habitat protection.

Thank you for your consideration.

Best Regards,


William M. Tipton
President

Handwritten signature

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 * DELIVER TO: JFOM. *
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 * ORIGINAL *
 * SENT: 02/28/86 TIME: 09:05 *
 * FROM: LIOSIT *
 * SUBJECT: FOM *
 * PRINT DATE: 02/28/86 TIME: 09:05 *
 * *

7

TO: SENATE C&RA COMMITTEE MEMBERS
DEVRIES, FERGUSON, COGHILL, V. FISCHER, AND ~~STROBLEWSKI~~

CC. SENATOR ELIASON AND REPRESENTATIVE GRUSSENDORF

FROM: GREG STREVELER, CHAIRMAN
GUSTAVUS CRANE COMMITTEE
P.O. BOX 94, GUSTAVUS, AK 99826 697-2287

RE: CSHB312(FIN); EST. DUDE CREEK CRITICAL HABITAT AREA

URGE YOUR SUPPORT OF CSHB312. THIS BILL WAS ORIGINATED BY THE COMMUNITY OF GUSTAVUS. IN ENJOYS OVERWHELMING LOCAL SUPPORT BECAUSE IT PROTECTS AN IMPORTANT SAND HILL CRANE STOPOVER AREA WHILE AT THE SAME TIME INSURING CONTINUANCE OF ALL COMPATIBLE TRADITIONAL USES.

***** SITKA LIO, 2-28-86 *****

Handwritten signature

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 * DELIVER TO: JPOM *
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 * ORIGINAL *
 * SENT: 03/06/86 TIME: 09:23 *
 * FROM: LIOSIT *
 * SUBJECT: POM *
 * PRINT DATE: 03/06/86 TIME: 09:33 *
 * *

6

TO: SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE MEMBERS
 DEVRIES, FERGUSON, COGHILL, V. FISCHER, AND ██████████

FROM: JERRY CASE, GLACIER BAY NATIONAL PARK
 GUSTAVUS, AK 99826 697-2300

RE: CSHB312(FIN), EST. DUDE CREEK CRITICAL HABITAT AREA

I TOTALLY SUPPORT THE PASSAGE OF THE BILL TO ESTABLISH THE DUDE CREEK CRITICAL HABITAT AREA FOR PROTECTION OF SAND HILL CRANES IN GUSTAVUS AND URGE YOUR SUPPORT IN ITS PASSAGE THROUGH YOUR COMMITTEE.

***** SITKA LIO, 3-6-86 *****

Gustavus Community Association

P.O. Box 62
Gustavus, Alaska 99826

MAR 4 1986

February 28, 1986

Senator Edna DeVries
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator DeVries,

As you are aware, the bill for an act to establish the Dude Creek Critical Habitat Area (CSHB 312) is to be addressed March 6, at the Senate Community & Regional Affairs Committee meeting.

I would like to take this opportunity to encourage your support for this bill. The critical habitat designation for the "crane flats" in Gustavus is a dream we hope to see reach fruition this session. It began as a grass roots movement to provide legal habitat protection for the sandhill cranes that roost here during migration. Frankly, this did not meet with general community approval. What developed through a process of negotiation and compromise was a proposal that does meet the needs and wishes of most people. For example, any previous use of this land, i.e. public access, hunting, firewood harvest, grazing, etc. is allowable and assured in the wording of this bill.

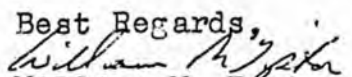
The community demonstrated majority support for this bill in January, 1984, in a referendum ballot polling every registered voter. The response was 66 in favor and 25 opposed. Last year the Gustavus Community Association endorsed the bill.

I strongly support the critical habitat designation for the following reasons:

- 1) it allows continued existing uses
- 2) it was conceived within the community and developed in the spirit of compromise
- 3) this land classification is consistent with the developing economic theme in Gustavus, i.e. recreation, tourism and resource attractions. I sincerely believe that what appears to be intangible benefit now will manifest itself as economic stimulation for the community in the long run.

This bill offers Gustavus a promise of continued public access and enduring habitat protection.

Thank you for your consideration.

Best Regards,

William M. Tipton
President

WT/am

Point Adolphus Seafoods

Gourmet Quality Alaskan Seafoods
P.O. Box 63 • Gustavus, Alaska 99826 • (907) 697-2246

March 2, 1986

Senator Edna DeVries
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator DeVries:

This letter is in regard to CSHB 312, the Dude Creek Critical Habitat Area. I am strongly in favor of this bill because it will provide for the continuation of existing uses of this land, mainly hunting and hiking. It also compliments the developing tourist industry locally, and I know of individuals who schedule their visits to Gustavus when they are most likely to see sandhill cranes.

For several years I have been working at compiling a history of Gustavus, and I have records of a family which visited relatives in Gustavus each fall in order that they could hunt ~~g~~ geese on the flats here. They did so for some fifteen years, until 1939, when they moved here. Additionally, when a portion of Gustavus which had been incorporated into Glacier Bay National Monument (in 1939) was removed from the Monument in 1955, the Alaska Daily Empire stated that "the new release is ... important in that a large area has been thrown open to duck hunters for the first time in 16 years."

Last year, in a suit against the State of Alaska, Charles and Dorothy DeBoer were awarded about 100 acres of land along and east of the Salmon River. The land is largely tidal, and is bisected by a State maintained road. This was the most popular hunting area (duck and geese) in Gustavus and I used to hunt there often. Now the land is private property, and hunting (or berry picking or hiking) is with permission only. The Dude Creek Critical Habitat Area would provide, in perpetuity, a place where the public could be sure it was welcome.

I hope that I am not short-changing the cranes. They are certainly an asset here, and I believe they contribute to the local quality-of-life. Myself, I know it is spring when I look at the calendar, but I know it more certainly when I here the cranes arriving.

Sincerely,


James R. Mackovjak

February 28, 1986

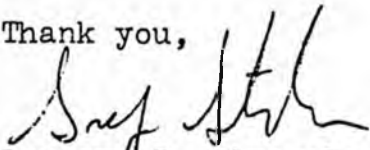
Edna DeVries
Alaska State Senate
Pouch V
Juneau, Ak. 99811

Dear Senator DeVries:

I respectfully request your favorable consideration of CSHB 312 (Dude Creek Critical Habitat Area) when it comes before the Senate Community and Regional Affairs Committee.

This bill crowns an effort by the Gustavus community to ensure a place for sandhill cranes in our future, while protecting traditional uses that are compatible with this goal. A 66 - 25 referendum vote taken two years ago, and overwhelmingly positive testimony before the House of Representatives last year both demonstrate the degree of local support.

Thank you,



Gregory P. Streveler
Box 94
Gustavus, Alaska 99826

Feb. 28, 1986

Dear Senator DeVries:

I sincerely hope you will support CSHB 312
Dude Creek Critical Habitat Area when it
comes before your committee. The cranes
were here long before Gustavus, and they
need protecting. The community has spoken
out in favor of this Critical Habitat area
in a referendum and in the State House.
We hope you will favor the bill.

Thank you for your consideration.

Sincerely,
Kate Boesser
Box 47
Gustavus, 99826

Senator Edna DeVries
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator DeVries,

I would like to add only one point of emphasis to Lynne Jensen's letter concerning the Crane Flats. The Dude Creek Critical Habitat Area (CSH13312) is important to Sandhill cranes because it is wet and because it is relatively open, un-forested land. Traditional uses of this land by Gustavus residents have not required changes in land qualities important from a crane's point of view; the proposed legislation allows all such traditional use. Thus, Gustavus residents, looking at the crane habitat from widely differing philosophies concerning land use, have clearly shown their support for the concept of this critical habitat area. The 1984 referendum supported this critical habitat area legislation with 73% of the vote in favor of the proposed Critical Habitat designation.

These cranes are magnificent and having them here does not compromise other land uses—thus, the strong local support; thus the request for legislative support. I would urge your support for this legislation.

Sincerely,

George Jensen

Box 87

Gustavus, AK 99826

3/3/86

Senator Edna DeVries

Alaska State Legislature

Juneau

Juneau, AK 99811

Dear Senator DeVries:

I understand that you are the champion

for the Senate Community & Regional Affairs

committee which will be meeting on March 6th

to address the Bule Creek Critical Habitat

Area (CSHB 312) in Gustavus.

I would like to ask your support

for their bill. The "come plot", as we

call the Bule Creek area, covering important

to this community. As in the song "When the

Swarblow come back to Capriano", when

the Swarthill come visit our community

each Spring and fall on their annual

migrations north & south, everyone

takes notice. Pie Murray has even painted

a picture of the crane in flight over Gustavus

It is an awesome sight to see and to hear it.

hundreds of cranes fly in the sky circling

in their long wheels, or to stand looking up

and watching the long skeins pass overhead for what seems like forever.

We Gustavus folks feel it is important to protect the wet lands where the cranes congregate on their annual visits here. If that area were to be drained, the habitat would change and would not support the numbers of cranes that stop there. Other areas in Gustavus where cranes historically landed are no longer used because they have been drained (i.e. north of the airport runway).

As you probably know, Gustavus folks rarely agree on anything out here. But in a referendum questionnaire done in 1984, sent to every registered voter, the result was highly in favor of protection for the crane flats. The reason people agreed was because we could continue our traditional uses of the land - it wouldn't be "locked up" for only the cranes to use - but the habitat would be protected so they will continue to stop here every year.

The decision to go with critical habitat designation came after long discussions, meetings, phone calls, and finally a panel discussion with people from DNR, Fish & Game, Coastal zone management and C+RA. All of the options for protection were considered. "Critical Habitat" seemed to us to be the least restrictive and the most protective of the habitat for the cranes...

I realize the problems you are encountering with the difficult "mental health lands" issue. It is our hope that DNR & Div. of Mental Health can work out an exchange of some kind. The land itself would ~~be~~ not be worth much on the open market because it is so wet.

Thank you very much for taking the time to consider the Dude Creek Critical Habitat. Again, I would urge your support for this important decision.

Sincerely,

Lynne M. Jensen

Box 87

Galveston AK 99826

Feb. 27, 1986

Dear Senator, G.D. Uries,

I would like to ask for your support of C.S. H.B. 312, an act creating the Dude Creek Sandhill Crane Critical Habitat.

I understand that this piece of legislation is before your committee this coming week.

I strongly support this bill because it is designed to protect a traditional resting and feeding area for sandhill crane.

The community of Gustavus, which lies next to this area, has worked at achieving some sort of protection status for migrating crane habitat for several years. Meetings with state officials, committee work, and the polling of residents have all gone into this effort.

This bill is not merely an attempt to lock up land for its own sake. Compromise has been undertaken on boundaries, the least restrictive classification for the area, and the continuance

of traditional uses (ie. trapping,
hunting, fishing) are evidence of
that desire.

We seek to set aside an
area that without proper monitoring
could be altered by drainage
or other harmful harassments by
man.

Thank you for your time and
good luck in ~~your~~ the lieutenant
governors race.

Respectfully,

Morgan DeBoer

WHEN IN RESOURCE
SETUP T.C.

IN C+RA - 3/6/86

- ECONOMIC BENEFIT -
FOR TOURISM

Offered: 4/30/85
Referred: Rules

Original sponsors: Goll, Duncan,
M.M. Miller and Binkley

LLOYD PROUTY
Box 32
Gustavus, AK
697-2242 99826
BY THE FINANCE COMMITTEE

DOR -

~~TO SPEAK ON MENTAL HEALTH~~

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 312 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act establishing the Dude Creek Critical Habitat Area."
7

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

9 * Section 1. AS 16.20 is amended by adding a new section to read:

10 Sec. 16.20.231. DUDE CREEK CRITICAL HABITAT AREA. (a) The
11 purpose of the Dude Creek Critical Habitat Area is the protection and
12 enhancement of the wet meadow habitat that is the key roosting area
13 for migrating lesser sandhill cranes, for the protection of lesser
14 sandhill cranes, and for the continued public use and enjoyment of the
15 area.

16 (b) The Dude Creek Critical Habitat Area described in (d) of
17 this section shall be managed under a management plan prepared by the
18 Department of Fish and Game in consultation with the community of
19 Gustavus and approved by the Board of Game.

20 (c) The Department of Fish and Game shall manage hunting, fish-
21 ing, and trapping within the Dude Creek Critical Habitat Area. The
22 Department of Fish and Game shall permit public access, grazing,
23 firewood harvesting, wildlife viewing, hiking, and berry picking under
24 the management plan adopted under (b) of this section to the extent
25 that the activities are compatible with the purpose for which the Dude
26 Creek Critical Habitat Area was established.

27 (d) The state-owned land and water within the following de-
28 scribed parcels are designated as the Dude Creek Critical Habitat
29 Area:

GOLL

LTR FROM
JIM GOTTSTEIN
CALL RODGER

1 Township 40 South, Range 58 East, Copper River Meridian
2 Section 2: W1/2
3 Section 3
4 Sections 9 - 10
5 Section 11: W1/2NE1/4, W1/2
6 Section 14: Lot 3, NW1/4, N1/2SW1/4, SW1/4SW1/4
7 Section 15
8 Section 16: N1/2, SE1/4

Page 2, add a new section to read:

* Sec. 2. The Department of Natural Resources will identify and appraise any mental health trust lands included in the parcels described in AS 16.20.031 (d) above. The Department of Natural Resources will then identify and appraise suitable state general grant lands of equal value to replace the appraised mental health trust lands. Upon identification and appraisal of the replacement general grant lands, the mental health trust lands within the parcels described in subsection (d) of section 1 above shall be included in the Dude Creek Critical Habitat Area, and the replacement general grant lands thereafter shall be managed by the Department of Natural Resources as mental health trust lands. The commissioner of natural resources shall ensure that at the time of the appraisal the replacement lands for the mental health lands to be included in the Dude Creek Critical Habitat Area have at least equal potential for generating revenues as the mental health trust lands contained in the parcels described in AS 16.20.031 (d) above. The provisions of AS 38.05.945 are applicable to the designation of general grant lands as replacement lands for the mental health trust lands included in the Dude Creek Critical Habitat Area.

DEVELOPED
BY
COMMUNITY

DUDE CREEK CRITICAL HABITAT AREA

Letter of Intent

It is the intent of the Legislature that surface vegetation and soils be maintained to preserve the wetlands nature of the critical habitat area and provide protection to migrating lesser sandhill cranes.

In creating the Dude Creek Critical Habitat Area, the Legislature also intends that hunting, fishing and trapping activities will continue to occur in accordance with harvest regulations as established by the Boards of Fisheries and Game. The following public uses of the area are recognized as historic and traditional: wildlife viewing, firewood harvesting, public access, hiking, berry picking, and grazing. It is the intent of the Legislature that the listed uses will continue unless they are determined to be incompatible with the purpose for which the area is established. The Department of Fish and Game will conduct specific fact finding, including public hearings in Gustavus, prior to making final determination of the compatibility of the listed uses during various times of the year.

The Department is to consult with the community of Gustavus in the preparation and implementation of a management plan for the Dude Creek Critical Habitat Area. In the event that the community forms a local fish and game advisory committee or a critical habitat advisory group, the Department will work closely with those entities in preparation of the plan.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

March 4, 1986

The Honorable Edna DeVries
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Senator DeVries:

I am writing to provide the department's position relative to the amendments proposed by the sponsor for HB 312, creating the Dude Creek Critical Habitat Area, which is scheduled for hearing in your committee on Thursday, March 6, 1986.

This substitute requires that the commissioner replace the 3,000 acres of mental health land inside the unit with an equal value of suitable general grant land elsewhere. In making this replacement, the commissioner must ensure that the replacement lands have at least an equal potential as the mental health lands to generate revenue. Inclusion of this provision in this bill would not impose a burden upon the department.

The department further agrees that in the event HB 312 passes with the amendments proposed by Representative Goll and provided that settlement has not been reached in the mental health lands case, Weiss v. Alaska, the department will seek to implement the following arrangement concerning the required land appraisals with the plaintiffs and intervenors: Within the constraints of the Administrative Procedures Act, (1) the department will obtain an agreement with the plaintiffs and intervenors as to the criteria for selection of an independent appraiser; and (2) departmental appraisal instructions provided to the appraiser will be agreed upon by the state and attorneys for the plaintiffs and intervenors. Failing to reach agreement on these issues, the court will be asked to review the criteria for selection of an appraiser and issuance of instructions for an appraisal.

Sincerely,

Robert D. Arnold
Deputy Commissioner

cc: Representative Goll

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

APR 22 1986

April 21, 1986

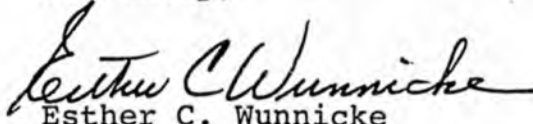
The Honorable Edna DeVries
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator DeVries:

At your request I have enclosed legal descriptions for both the mental health lands and non-mental health lands within the proposed Dude Creek Critical Habitat Area.

Please let me know if there is additional information I might furnish.

Sincerely,


Esther C. Wunnicke
Commissioner

cc: The Honorable Peter Goll
David Walker
Jim Gottstein
Tom Koester
Tom Hawkins
Salli Slaughter

Legal Descriptions for HB 312

Mental Health Land:

Township 40 South, Range 58 East, CRM

Section 2, SW $\frac{1}{4}$	160 acres
Section 3, All	640 acres
Section 9, All	640 acres
Section 10, All	640 acres
Section 11, W $\frac{1}{2}$, W $\frac{1}{2}$ NE $\frac{1}{4}$	400 acres
Section 14, Lot 3, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$	323 acres
Section 15, All	<u>640 acres</u>

TOTAL 3443 acres

Non Mental Health Land:

Township 40 South, Range 58 East, CRM

Section 2, NW $\frac{1}{4}$	160 acres
Section 16, N $\frac{1}{2}$, SE $\frac{1}{4}$	<u>480 acres</u>

TOTAL 640 acres



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

M E M O R A N D U M

April 16, 1986

TO: Commissioner Wunnicke
Department of Natural Resources

FROM: Edna DeVries, Chair *Edna*
Senate C&RA Committee

SUBJ: CS for HB 312 (Fin) An Act establishing the
Dude Creek Critical Habitat Area

This memorandum confirms a conversation this date between a member of my staff and Ned Farquhar, Legislative Liaison, Department of Natural Resources.

Please furnish the Committee the legal description of mental health lands within the proposed Dude Creek Critical Habitat Area.

This information is required from DNR for the record. Representative Peter Goll, sponsor of the bill, has requested the Senate C&RA to consider an amendment which would exclude mental health lands from the Habitat Area.

Your earliest response to this request would be most appreciated.

cc: Representative Goll



Official Business

Alaska State Legislature

House of Representatives

Special Committee on Fisheries

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-4924

M E M O R A N D U M

April 7, 1986

TO: Senator Edna DeVries
Chairman
Community and Regional Affairs Committee

FROM: Representative Peter Coll *Peter Coll*

SUBJECT: Proposed Amendment to CSHB 312 (Fin)

Page 2, line 2:

Section 2: [W1/2] NW1/4

Page 2, lines 3-7:

Delete all language

Comment: This amendment removes all Mental Health Trust Lands from the Dude Creek Critical Habitat Area. The remaining 640 acres of general grant lands are contained in two separate parcels.



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

March 12, 1986

To: Representative Peter Goll

From: Senator Edna DeVries, Chair
Community & Regional Affairs Committee

Subj: Dude Creek Critical Habitat Legislation

The State Senate is making every effort to balance the current State budget, as well as plan ahead for the major revenue shortfall the State will experience in FY 1987.

In this regard a decision has been made that no Mental Health Lands will be included in any new land withdrawals or land classifications/reclassifications.

The Dude Creek Critical Habitat Area as proposed in CSHB 312 (fin) includes Mental Health Lands. My committee will not act on the bill as it is presently drafted.

If you desire to re-write the bill so that it excludes all lands classified "Mental Health", please let me know and I will work with you on getting a revised bill through my committee.

cc: Robert D. Arnold, Dep Commissioner, Dept Natural Resources

Senator Dick Eliason

C&RA Committee Members:

Senator Coghill

Senator Ferguson

Senator Vic Fischer

Senator Sturgulewski



STATE OF ALASKA
HOUSE OF REPRESENTATIVES

MEMORANDUM

March 6, 1986

TO: Senate Community and Regional Affairs Committee
FROM: Representative Peter Goll *Peter Goll*
SUBJECT: Briefing Paper for House Bill 312

DUDE CREEK CRITICAL HABITAT AREA

Location

Gustavus, Alaska

Land Status

There are no in-holdings; the parcel proposed for the critical habitat area is state-owned or selected. Much of the acreage is mental health lands; this issue is addressed in proposed amendments and letters submitted to the committee.

History

The residents of Gustavus have been working on the proposal for the past three years. The critical habitat status was selected after a careful review of the available land management options.

The concept was endorsed in a community-wide January, 1984, referendum by a 66-25 vote. A committee of resident citizens was formed to work with the Alaska Department of Fish and Game to develop proposed legislation.

The resulting legislation (House Bill 312) and accompanying letter of intent received the unanimous endorsement of the Gustavus Community Association on March 4, 1985.

Purpose

The wet meadow at the western edge of the community of Gustavus is a major resting area for the Pacific population of Lesser Sandhill Cranes during their annual migration between western Alaska and southern California.

Research shows that half or more of the entire Pacific population of Lesser Sandhill Cranes uses the Dude Creek meadow during the September and April-May migratory periods. The adjacent national park is little used by the cranes.

The crane habitat at Gustavus has been greatly reduced in recent years by development and natural reforestation. The proposed critical habitat area includes the largest remaining block of appropriate habitat in the area. The wet meadow favored by the cranes is very susceptible to alteration by draining. The birds also are very easily disturbed by human presence.

The proposed legislation requested by Gustavus is designed to give the Alaska Department of Fish and Game authority to manage human uses of the Dude Creek wet meadow to protect the habitat needed by the cranes. The legislation and letter of intent also make it clear that existing compatible human uses will be accommodated. The letter of intent also gives ADF&G clear direction to work in close cooperation with Gustavus residents in drafting a management plan.

Point Adolphus Seafoods

Gourmet Quality Alaskan Seafoods
P.O. Box 63 • Gustavus, Alaska 99826 • (907) 697-2246

March 2, 1986

Senator Edna DeVries
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator DeVries:

This letter is in regard to CSHB 312, the Dude Creek Critical Habitat Area. I am strongly in favor of this bill because it will provide for the continuation of existing uses of this land, mainly hunting and hiking. It also compliments the developing tourist industry locally, and I know of individuals who schedule their visits to Gustavus when they are most likely to see sandhill cranes.

For several years I have been working at compiling a history of Gustavus, and I have records of a family which visited relatives in Gustavus each fall in order that they could hunt ~~gg~~ geese on the flats here. They did so for some fifteen years, until 1939, when they moved here. Additionally, when a portion of Gustavus which had been incorporated into Glacier Bay National Monument (in 1939) was removed from the Monument in 1955, the Alaska Daily Empire stated that "the new release is ... important in that a large area has been thrown open to duck hunters for the first time in 16 years."

Last year, in a suite against the State of Alaska, Charles and Dorothy DeBoer were awarded about 100 acres of land along and east of the Salmon River. The land is largely tidal, and is bisected by a State maintained road. This was the most popular hunting area (duck and geese) in Gustavus and I used to hunt there often. Now the land is private property, and hunting (or berry picking or hiking) is with permission only. The Dude Creek Critical Habitat Area would provide, in perpetuity, a place where the public could be sure it was welcome.

I hope that I am not short-changing the cranes. They are certainly an asset here, and I believe they contribute to the local quality-of-life. Myself, I know it is spring when I look at the calendar, but I know it more certainly when I here the cranes arriving.

Sincerely,


James R. Mackovjak

Gustavus Community Association

P.O. Box 62
Gustavus, Alaska 99826

MAR 4 1986

February 28, 1986

Senator Edna DeVries
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator DeVries,

As you are aware, the bill for an act to establish the Dude Creek Critical Habitat Area (CSHB 312) is to be addressed March 6, at the Senate Community & Regional Affairs Committee meeting.

I would like to take this opportunity to encourage your support for this bill. The critical habitat designation for the "crane flats" in Gustavus is a dream we hope to see reach fruition this session. It began as a grass roots movement to provide legal habitat protection for the sandhill cranes that roost here during migration. Frankly, this did not meet with general community approval. What developed through a process of negotiation and compromise was a proposal that does meet the needs and wishes of most people. For example, any previous use of this land, i.e. public access, hunting, firewood harvest, grazing, etc. is allowable and assured in the wording of this bill.

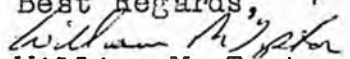
The community demonstrated majority support for this bill in January, 1984, in a referendum ballot polling every registered voter. The response was 66 in favor and 25 opposed. Last year the Gustavus Community Association endorsed the bill.

I strongly support the critical habitat designation for the following reasons:

- 1) it allows continued existing uses
- 2) it was conceived within the community and developed in the spirit of compromise
- 3) this land classification is consistent with the developing economic theme in Gustavus, i.e. recreation, tourism and resource attractions. I sincerely believe that what appears to be intangible benefit now will manifest itself as economic stimulation for the community in the long run.

This bill offers Gustavus a promise of continued public access and enduring habitat protection.

Thank you for your consideration.

Best Regards,

William M. Tipton
President

WT/am

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 2/12/86

REQUEST

Bill/Resolution No. : HB 312
 Title : Establish Dude Creek CHA

Sponsor : Goll, Duncan, M.M. Miller, Binkley
 Requestor : Senate, C&RA
 Date of Request : 02/11/86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Land and Water Management

Components : Public Use

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	15.0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING : (Thousands of Dollars)

GENERAL FUND	15.0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	15.0	0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Section 2 of the bill provides for replacement of about 3900 acres of mental health trust land inside the Critical Habitat Area with an equal value of General Grant Land. To effect this replacement the department must appraise the mental health Land. It is estimated that \$7500 will be needed to appraise the

Prepared by : Michael E. Vediner *MVE* Phone : 465-2400
 Division : Land and Water Management Date : 2-12-86

Approved by Commissioner : Wm D. Amos, Deputy Date : 2/14/86
 Agency : Natural Resources

Distribution (by Agency preparing fiscal note) :

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

HB 312

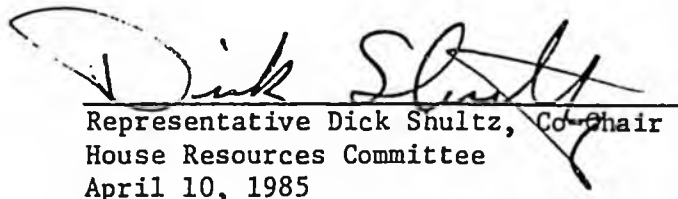
DUDE CREEK CRITICAL HABITAT AREA

Letter of Intent

It is the intent of the Legislature that surface vegetation and soils be maintained to preserve the wetlands nature of the critical habitat area and provide protection to migrating lesser sandhill cranes.

In creating the Dude Creek Critical Habitat Area, the Legislature also intends that hunting, fishing and trapping activities will continue to occur in accordance with harvest regulations as established by the Boards of Fisheries and Game. The following public uses of the area are recognized as historic and traditional: wildlife viewing, firewood harvesting, public access, hiking, berry picking, and grazing. It is the intent of the Legislature that the listed uses will continue unless they are determined to be incompatible with the purpose for which the area is established. The Department of Fish and Game will conduct specific fact finding, including public hearings in Gustavus, prior to making final determination of the compatibility of the listed uses during various times of the year.

The Department is to consult with the community of Gustavus in the preparation and implementation of a management plan for the Dude Creek Critical Habitat Area. In the event that the community forms a local fish and game advisory committee or a critical habitat advisory group, the Department will work closely with those entities in preparation of the plan.


Representative Dick Shultz, Co-Chair
House Resources Committee
April 10, 1985

4/10



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER HB312	SPONSOR Goll, Duncan, Miller, Binkley
DEPARTMENT POSITION Strongly Support			
PREPARED BY Habitat Division/Debra Clausen	DATE 4/2/85	COMMISSIONER'S SIGNATURE <i>Chris Kellyworth</i>	DATE 4-5-85

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL Community of Gustavus
ORGANIZATIONAL SUPPORT FOR BILL Community of Gustavus	ORGANIZATIONAL OPPOSITION TO BILL None known

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The purpose of establishing the Dude Creek Critical Habitat Area is to protect and enhance the wet meadow habitat that is the key roosting area for migrating lesser sandhill cranes, to protect lesser sandhill cranes, and for the continued public use and enjoyment of the area.

ANALYSIS OF BILL/PROGRAM EFFECTS

1. Establishes the Dude Creek Critical Habitat Area.
2. Identifies the purpose for which the area is established.
3. Provides for the management of the Dude Creek Critical Habitat Area including the development of a management plan.

AMENDMENTS PROPOSED

None

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.



Alaska Environmental Lobby, Inc.

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

907-586-2345

DUDE CREEK CRITICAL HABITAT AREA: HB312

Even the modest growth and development around small towns can have big consequences for the wildlife of Alaska. The case of Gustavus, in Southeast Alaska, is a good example. Half or more of the entire Pacific population of lesser sandhill cranes stop over in the Gustavus area during their Fall migration South. In years past, the cranes were dispersed over the whole Gustavus area, because wet meadows, their favorite habitat, were plentiful. But the construction of the airport and main roads, combined with natural forest succession, have severely reduced the wet meadows in the area. These meadows provided the cranes with rich food for their migration, shallow water for roosting, visibility for protection from predators, and remoteness from human activity. Most of the migrating cranes now concentrate in the Dude Creek area immediately west of Gustavus, one of the few areas where suitable meadows remain.

House Bill 312 would establish the Dude Creek Critical Habitat Area, for the protection and enhancement of the cranes and of the Dude Creek wet meadows, the key roosting area for the migrating cranes. The State owns almost all of the meadows--about 4100 acres presently managed by the Department of Natural Resources. The rest of the land (160 acres) is federally owned. Under the bill, the meadows would be open to public access, grazing, firewood harvesting, wildlife viewing, hiking and berry picking, as long as those activities didn't harm the cranes or their habitat. The Department of Fish and Game would develop a plan in consultation with the community of Gustavus and approved by the Board of Game for the management of the area.

Similar efforts to protect the flyway of the lesser sandhill cranes are being made in the four Pacific states, as well as in British Columbia. The concept of the Dude Creek Critical Habitat Area was endorsed in a community-wide referendum in Gustavus in January 1984, by a 66-25 vote. This bill has subsequently received the unanimous endorsement of the Gustavus Community Association.

The Alaska Environmental Lobby supports HB312 with enthusiasm. The sandhill cranes that stop over in Gustavus travel nearly statewide. Because of their distinctive profile, these handsome birds are often recognized at great distances as they fly. Although the critical habitat area is in Gustavus, it benefits all of Alaska.

Issue paper #5 prepared for the AEL by Brian Allen, 4/8/85

JAMES B. GOTTSTEIN

ATTORNEY AT LAW

406 G STREET, SUITE 206
ANCHORAGE, ALASKA 99501
(907) 274-7886

APR 25 1986

April 22, 1986

Senator Edna DeVries
Pouch V
Juneau, Alaska 99811

Re: CSHB 312 (Fin)

Dear Senator DeVries:

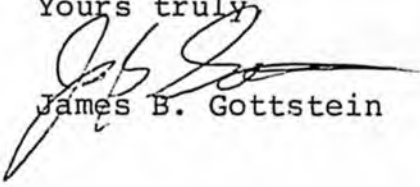
On April 21, 1986 I received your April 16, 1986 letter requesting I provide you with legal descriptions of Mental Health lands within the proposed Dude Creek Critical Habitat Area. You should properly address this request to the Department of Natural Resources. It is my understanding that some 3,443 acres of 4,100 acres initially proposed for the Dude Creek Critical Habitat Area are Mental Health lands.

I am sorry that your Senate Majority Caucus made the decision it did, because Representative Goll, the Department of Natural Resources, myself and David Walker had all worked out an approach to enable the Dude Creek Critical Habitat Area to proceed with the original acreage proposed.

I would like to point out, however, that it is critical that the Interim Mental Health Trust Lands Commission be adequately funded to perform the required appraisals and audits on Mental Health lands. Otherwise, Mental Health lands could be in limbo for many years.

As always, I am available for any questions or comments.

Yours truly,


James B. Gottstein

cc: Representative Goll
Bob Arnold
David Walker

JBG/tvd

1 Township 40 South, Range 58 East, Copper River Meridian
2 Section 2: W1/2
3 Section 3
4 Sections 9 - 10
5 Section 11: W1/2NE1/4, W1/2
6 Section 14: Lot 3, NW1/4, N1/2SW1/4, SW1/4SW1/4
7 Section 15
8 Section 16: N1/2, SE1/4

Offered: 4/30/85
Referred: Rules

Original sponsors: Goll, Duncan,
M.M.Miller and Binkley

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 312 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing the Dude Creek Critical Habitat Area."

7

8

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

9

* Section 1. AS 16.20 is amended by adding a new section to read:

10

Sec. 16.20.231. DUDE CREEK CRITICAL HABITAT AREA. (a) The

11

purpose of the Dude Creek Critical Habitat Area is the protection and

12

enhancement of the wet meadow habitat that is the key roosting area

13

for migraving lesser sandhill cranes, for the protection of lesser

14

sandhill cranes, and for the continued public use and enjoyment of the

15

area.

16

(b) The Dude Creek Critical Habitat Area described in (d) of

17

this section shall be managed under a management plan prepared by the

18

Department of Fish and Game in consultation with the community of

19

Gustavus and approved by the Board of Game.

20

(c) The Department of Fish and Game shall manage hunting, fish-

21

ing, and trapping within the Dude Creek Critical Habitat Area. The

22

Department of Fish and Game shall permit public access, grazing,

23

firewood harvesting, wildlife viewing, hiking, and berry picking under

24

the management plan adopted under (b) of this section to the extent

25

that the activities are compatible with the purpose for which the Dude

26

Creek Critical Habitat Area was established.

27

(d) The state-owned land and water within the following de-

28

scribed parcels are designated as the Dude Creek Critical Habitat

29

Area:

MEMORANDUM

April 4, 1986

TO: Representative Peter Goll
FROM: Rodger Painter
SUBJECT: Proposed Amendment to CSHB 312(Fin)

Page 2, after line 8, add a new bill section to read:

"* Sec. 2. The general grant lands described in AS 16.20.231(d) shall be managed as a part of the Dude Creek Critical Habitat Area. The commissioner of natural resources shall identify and appraise the mental health trust land included in the parcels described in AS 16.20.231(d) as enacted in Sec. 1 of this Act. The commissioner also shall identify and appraise state general grant land of equal value to replace the appraised mental health trust land described in AS 16.20.231(d). The commissioner shall propose an exchange of the mental health trust land described in AS 16.20.231(d) for the replacement general grant land to the Fifteenth Alaska Legislature by January 31, 1987."

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

March 4, 1986

The Honorable Edna DeVries
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

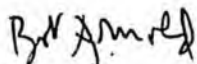
Dear Senator DeVries:

I am writing to provide the department's position relative to the amendments proposed by the sponsor for HB 312, creating the Dude Creek Critical Habitat Area, which is scheduled for hearing in your committee on Thursday, March 6, 1986.

This substitute requires that the commissioner replace the 3,000 acres of mental health land inside the unit with an equal value of suitable general grant land elsewhere. In making this replacement, the commissioner must ensure that the replacement lands have at least an equal potential as the mental health lands to generate revenue. Inclusion of this provision in this bill would not impose a burden upon the department.

The department further agrees that in the event HB 312 passes with the amendments proposed by Representative Goll and provided that settlement has not been reached in the mental health lands case, Weiss v. Alaska, the department will seek to implement the following arrangement concerning the required land appraisals with the plaintiffs and intervenors: Within the constraints of the Administrative Procedures Act, (1) the department will obtain an agreement with the plaintiffs and intervenors as to the criteria for selection of an independent appraiser; and (2) departmental appraisal instructions provided to the appraiser will be agreed upon by the state and attorneys for the plaintiffs and intervenors. Failing to reach agreement on these issues, the court will be asked to review the criteria for selection of an appraiser and issuance of instructions for an appraisal.

Sincerely,



Robert D. Arnold
Deputy Commissioner

cc: Representative Goll

Proposed Amendments to CSHB 312

Page 1, Line 28, after the word "parcels" insert the following:

", except for any mental health trust lands,"

Page 2, add a new section to read:

* Sec. 2. The Department of Natural Resources will identify and appraise any mental health trust lands included in the parcels described in AS 16.20.031 (d) above. The Department of Natural Resources will then identify and appraise suitable state general grant lands of equal value to replace the appraised mental health trust lands. Upon identification and appraisal of the replacement general grant lands, the mental health trust lands within the parcels described in subsection (d) of section 1 above shall be included in the Dude Creek Critical Habitat Area, and the replacement general grant lands thereafter shall be managed by the Department of Natural Resources as mental health trust lands. The commissioner of natural resources shall ensure that at the time of the appraisal the replacement lands for the mental health lands to be included in the Dude Creek Critical Habitat Area have at least equal potential for generating revenues as the mental health trust lands contained in the parcels described in AS 16.20.031 (d) above. The provisions of AS 38.05.945 are applicable to the designation of general grant lands as replacement lands for the mental health trust lands included in the Dude Creek Critical Habitat Area.



Alaska Environmental Lobby, Inc.

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

907-586-2345

DUDE CREEK CRITICAL HABITAT AREA: HB312

Even the modest growth and development around small towns can have big consequences for the wildlife of Alaska. The case of Gustavus, in Southeast Alaska, is a good example. Half or more of the entire Pacific population of lesser sandhill cranes stop over in the Gustavus area during their Fall migration South. In years past, the cranes were dispersed over the whole Gustavus area, because wet meadows, their favorite habitat, were plentiful. But the construction of the airport and main roads, combined with natural forest succession, have severely reduced the wet meadows in the area. These meadows provided the cranes with rich food for their migration, shallow water for roosting, visibility for protection from predators, and remoteness from human activity. Most of the migrating cranes now concentrate in the Dude Creek area immediately west of Gustavus, one of the few areas where suitable meadows remain.

House Bill 312 would establish the Dude Creek Critical Habitat Area, for the protection and enhancement of the cranes and of the Dude Creek wet meadows, the key roosting area for the migrating cranes. The State owns almost all of the meadows--about 4100 acres presently managed by the Department of Natural Resources. The rest of the land (160 acres) is federally owned. Under the bill, the meadows would be open to public access, grazing, firewood harvesting, wildlife viewing, hiking and berry picking, as long as those activities didn't harm the cranes or their habitat. The Department of Fish and Game would develop a plan in consultation with the community of Gustavus and approved by the Board of Game for the management of the area.

Similar efforts to protect the flyway of the lesser sandhill cranes are being made in the four Pacific states, as well as in British Columbia. The concept of the Dude Creek Critical Habitat Area was endorsed in a community-wide referendum in Gustavus in January 1984, by a 66-25 vote. This bill has subsequently received the unanimous endorsement of the Gustavus Community Association.

The Alaska Environmental Lobby supports HB312 with enthusiasm. The sandhill cranes that stop over in Gustavus travel nearly statewide. Because of their distinctive profile, these handsome birds are often recognized at great distances as they fly. Although the critical habitat area is in Gustavus, it benefits all of Alaska.

Issue paper #5 prepared for the AEL by Brian Allen, 4/8/85



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Sturgulewski

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

Committee Meeting -- Thursday, March 5, 1986

CSHB 312 (Fin) An Act establishing the Dude Creek Critical Habitat Area ✓

. . . Representative Goll, bill sponsor, will propose 2 amendments ✓
to the bill

Proposed amendments; Ltr from Deputy Commissioner, Dept Natural Resources ✓

Packet contains:

- 1) Briefing paper from Bill sponsor
- 2) Ltr from J. Gottstein on behalf of Alaska Mental Health Association
- 3) Bill analysis from Fish and Game
- 4) Letter of Intent attached by House Resources Committee
- 5) Fiscal note of \$7500
- 6) Letters of support for HB 312 from community of Gustavus
 - a) Wm Tipton, President Gustavus Community Association
 - b) J. Mackovjak, Pt Adolphus Seafoods
 - c) G. Streveler
 - d) K. Boesser
 - e) G. Jensen
 - f) L. Jensen
 - g) M. DuBoer

Offered: 4/30/85
Referred: Rules

Original sponsors: Goll, Duncan,
M.M.Miller and Binkley

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 312 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Dude Creek Critical Habitat
7 Area."

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

9 * Section 1. AS 16.20 is amended by adding a new section to read:

10 Sec. 16.20.231. DUDE CREEK CRITICAL HABITAT AREA. (a) The
11 purpose of the Dude Creek Critical Habitat Area is the protection and
12 enhancement of the wet meadow habitat that is the key roosting area
13 for migrating lesser sandhill cranes, for the protection of lesser
14 sandhill cranes, and for the continued public use and enjoyment of the
15 area.

16 (b) The Dude Creek Critical Habitat Area described in (d) of
17 this section shall be managed under a management plan prepared by the
18 Department of Fish and Game in consultation with the community of
19 Gustavus and approved by the Board of Game.

20 (c) The Department of Fish and Game shall manage hunting, fish-
21 ing, and trapping within the Dude Creek Critical Habitat Area. The
22 Department of Fish and Game shall permit public access, grazing,
23 firewood harvesting, wildlife viewing, hiking, and berry picking under
24 the management plan adopted under (b) of this section to the extent
25 that the activities are compatible with the purpose for which the Dude
26 Creek Critical Habitat Area was established.

27 (d) The state-owned land and water within the following de-
28 scribed parcels are designated as the Dude Creek Critical Habitat
29 Area:

1 Township 40 South, Range 58 East, Copper River Meridian
2 Section 2: W1/2
3 Section 3
4 Sections 9 - 10
5 Section 11: W1/2NE1/4, W1/2
6 Section 14: Lot 3, 1/4W1/4, N1/2SW1/4, SW1/4SW1/4
7 Section 15
8 Section 16: N1/2, SE1/4



STATE OF ALASKA
HOUSE OF REPRESENTATIVES

MEMORANDUM

April 1, 1985

TO: House Resources Committee
FROM: Representative Peter Goll
SUBJECT: Briefing Paper for House Bill 312

DUDE CREEK CRITICAL HABITAT AREA

Location

Gustavus, Alaska

Land Status

There are no in-holdings; the parcel proposed for the critical habitat area is state-owned or selected.

History

The residents of Gustavus have been working on the proposal for the past three years. The critical habitat status was selected after a careful review of the available land management options.

The concept was endorsed in a community-wide January, 1984, referendum by a 66-25 vote. A committee of resident citizens was formed to work with the Alaska Department of Fish and Game to develop proposed legislation.

The resulting legislation (House Bill 312) and accompanying letter of intent received the unanimous endorsement of the Gustavus Community Association on March 4, 1985.

Purpose

The wet meadow at the western edge of the community of Gustavus is a major resting area for the Pacific population of Lesser Sandhill Cranes during their annual migration between western Alaska and southern California.

Research shows that half or more of the entire Pacific population of Lesser Sandhill Cranes uses the Dude Creek meadow during the September and April-May migratory periods. The adjacent national park is little used by the cranes.

The crane habitat at Gustavus has been greatly reduced in recent years by development and natural reforestation. The proposed critical habitat area includes the largest remaining block of appropriate habitat in the area. The wet meadow favored by the cranes is very susceptible to alteration by draining. The birds also are very easily disturbed by human presence.

The proposed legislation requested by Gustavus is designed to give the Alaska Department of Fish and Game authority to manage human uses of the Dude Creek wet meadow to protect the habitat needed by the cranes. The legislation and letter of intent also make it clear that existing compatible human uses will be accommodated. The letter of intent also gives ADF&G clear direction to work in close cooperation with Gustavus residents in drafting a management plan.