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between DNR and ADF&G authorities in special areas. Administrators are seeking guidance on when they are required to consult with their counterparts in the other department before making a decision. Further, they seek clarification of when they may make an independent decision for their department which is controlling, and when an independent decision from the other department is necessary as well for an activity to occur.

A. Consultation requirements

As discussed in section II B above, DNR has various statutory authorities and responsibilities with respect to state-owned land, such as acquisition, lease, and sale. In exercising those powers, DNR makes its own decisions. However, in some cases when making its decisions DNR is required by statute to consult with ADF&G regarding the proposed action, although the ultimate decision rests with DNR. For example, under AS 38.50-.010, DNR is authorized to exchange state land or interests in state land for other land, interest in land, or other consideration. However, "if land under the jurisdiction of a state agency other than the Department of Natural Resources may be involved," AS 38.50.090(a) requires DNR to "afford the head of that agency an opportunity to participate in the discussions respecting the lands." The Department of Law has previously concluded that this provision requires consultation with ADF&G when exchanges of interest in refuge land are being considered. 1980 Inf. Op.

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Att'y Gen. (Oct 9; A-66-022-81). 23/ Another example is the requirement that DNR "provide for meaningful participation in the planning process" by affected state agencies in developing land use plans by regions or areas. AS 38.04.065(b)(8). Further, before classification, zoning, or disposal actions, AS 38.05.945 requires notification of parties "known or likely to be affected."

In other cases, the duty to consult with ADF&G has been set out in regulation. For example, a 1981 memorandum by Assistant Attorney General G. Thomas Koester discussed DNR's authority to incorporate restrictions requested by ADF&G in a multiple land-use permit. 1981 Inf. Op. Att'y Gen. (Dec 15; J-66-352-82). That opinion discussed the then current version of 5 AAC 55.230, which allowed land classified as wildlife habitat to be used for mineral exploration "subject to restrictions which may be imposed by the commissioner [of DNR] at the request of the Commissioner of the Department of Fish and Game." The regulation further stated that lands classified as wildlife habitat could be leased and the disposal of timber and materials allowed if approved by DNR "after consultation with the Commissioner of the Department

23/ As discussed later in this section, land in refuges and sanctuaries cannot be transferred in fee out of state ownership without specific legislative authorization.

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of Fish and Game."

In addition to instances of mandatory consultation, we assume that DNR and ADF&G regularly consult about matters of mutual concern where either agency may be contemplating exercising one of its authorities or responsibilities.

B. Nature of separate, complementary authorities

With respect to special areas, ADF&G and the boards have some authorities and responsibilities which are independent of DNR's and some which overlap. If someone wishes to conduct an activity in a special area, often both DNR and ADF&G have separate rights of review and decision. In those cases, an affirmative decision by each agency would be needed before the activity could begin. This is similar to the situation discussed by Assistant Attorney General Jeffery Lowenfels in a 1981 memorandum evaluating AS 38.05.030(a). 24/ 1981 Inf. Op. Att'y Gen. (Mar. 20; A-66-303-81). That provision specified that the disposal of university lands was to be made by DNR, but that "no sale, lease, exchange or other disposal of university lands may be made without the approval of the Board of Regents of the University of Alaska." The opinion concludes at page 3 that the issuance of a mining lease or mineral patent by DNR on university lands is

24/ This section was subsequently repealed by ch. 152, SLA 1984.

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prohibited unless expressly approved by the Board of Regents. Thus, absent a "classification prohibiting staking which would cover all or part of the university grant lands ... such lands are open to mineral entry, i.e., claim staking, but removal of minerals without prior issuance of a Board of Regents approved lease would not be lawful." Id.

Similarly, in each of the three special areas, DNR and ADF&G have certain dual authorities, not identical in scope, which call for independent review; each agencies' approval is equally necessary for certain activities to occur.

C. Separate, complementary authorities in sanctuaries

In game sanctuaries, governed by AS 16.20.090 -- AS 16.20.170, the authorities given to ADF&G and the boards are set out in a format different from the format for refuges and critical habitat areas, and are much broader. As discussed in section II D above, in sanctuaries the boards are given broad regulatory authority over "entry, development, construction, hunting, fishing, and all other activities or uses...." AS 16.20.120 and AS 16.20.170. These regulations must be for the "purpose of preserving the natural habitat and fish and game" Id. The only other restriction is that they shall not be inconsistent with AS 16.20.130 and AS 16.20.140, which in concert with AS 16.20.170 prohibit the sale of sanctuary land and allow leasing only as mineral land under DNR regulations.

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Thus, the boards' regulations under AS 16.20.120 could not prohibit authorized oil and mineral exploration and development but could condition it as long as the conditions were not inconsistent with federal and state laws and regulations, nor with other limitations determined jointly by DNR and ADF&G. AS 16.20.130. Additionally, the boards can in all other respects govern uses and activities so as to preserve the habitat or fish or game of the area. 25/ As discussed in section III above, this authority includes permitting authority. In sanctuaries, then, DNR's role is limited to regulation and limitation of oil and mineral exploration and development.

D. Separate, complementary authorities in refuges and critical habitat areas

For refuges and critical habitat areas, as discussed in section II D above, the statutory framework which gives authority to ADF&G and the boards differs from the one just reviewed for sanctuaries, and the standard under which the authority is exercised is limited to possible effects on fish, game or their habitat. The powers and duties of ADF&G and the boards in those two types of special areas are quite similar.

25/ Therefore, activities inconsistent with preserving the habitat could not be authorized by the boards, and we see no occasion for board regulations to conflict with general land management statutes.

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ADF&G is given a general permitting authority for refuges 26/ and shares that authority with the boards for critical habitat areas. Whenever the "use, lease or disposal of real property" in refuges is "under the control or jurisdiction of the state," AS 16.20.050 requires the responsible state department (in many cases, DNR) to notify ADF&G before "initiating" the use, lease or disposal. Under AS 16.20.250, in critical habitat areas private land as well as state-owned land is subject to the requirement, 27/ and thus, the statute imposes the duty to notify ADF&G upon the private party as well as the responsible state agency.

After notice is received by ADF&G, the person or governmental agency may be required to submit full plans and specifications. For refuges, ADF&G makes that decision, and for critical habitat areas, the boards decide. AS 16.20.060 and AS 16.20.260. The description of what can be required is identical

26/ In addition, with respect to game refuges, ADF&G has a further statutory mandate. For the Mendenhall Wetlands state game refuge and Creamer's Field migratory waterfowl refuge, ADF&G is explicitly directed to develop a plan to promote the purposes of the refuges, and activities in those refuges are permitted only if compatible with the overall plan. AS 16.20.034(e),(f),(g) and (i), and AS 16.20.039(d).

27/ As discussed in section II C above, DNR is authorized but not required to adopt zoning regulations on private land contained within five of the refuges. AS 16.20.030(b) and (d), AS 16.20.032(d), AS 16.20.036(e), and AS 16.20.038(e).

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for refuges and critical habitat areas: full plans and specifications for the anticipated use, for the proposed construction work, and for the proper protection of fish and game, as well as the approximate date when the construction or work is to commence. Id. Further, ADF&G (for refuges) and the boards (for critical habitat areas) are given the authority to require the person or governmental agency to obtain written approval from ADF&G "as to the sufficiency of the plans and specifications before construction is commenced." Id. As discussed in section III above, written approval that is a prerequisite to commencement of an activity has been determined previously by this office to be a permit. 1982 Op. Att'y Gen. No. 1 (Mar. 4). The legislature has thus required that the impact on fish and game in these areas, specifically established to protect and preserve the natural habitat and to perpetuate fish and wildlife, be evaluated by the agency charged with fish and game management, ADF&G.

Although the requirement in AS 16.20.060 and AS 16.20-.260 for approval before "construction is commenced" can be interpreted several ways, 28/ we believe the most supportable reading encompasses the commencement or continuation of any

28/ "Construct" means "to form, make, or create by combining parts or elements." Webster's Third New International Dictionary, 489 (1976).

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activity which ADF&G determines is likely to affect fish or wildlife or their habitat. In Alaska, a sliding scale for construction of statutes has been established. State v. City of Haines, 627 P.2d 1047, 1049, n.6 (Alaska 1981); accord State v. Alex, 646 P.2d 203, 208-09, n.4 (Alaska 1982). Alaska courts will now construe a statute in light of the overall purposes of the legislation as a whole and will not construe a statute in a manner inconsistent with the express objective of that very legislation. Anchorage Municipal Employment Association v. Municipality of Anchorage, 618 P.2d 575, 580 (Alaska 1980). As detailed in section II A above, the express purpose of refuges and critical habitat areas is to "protect and preserve" the natural habitats and fish and wildlife populations. AS 16.20.020 and AS 16.20.220. Further, for critical habitat areas, the objectives include restricting "all other uses not compatible with" that protection and preservation. AS 16.20.220. Thus, it is most likely that the legislature intended ADF&G's review and approval function in legislatively designated areas to be triggered by the likelihood of impact on fish or game or their habitat.

A narrower reading -- that the written approval applies only to the actual nailing of boards, digging of holes, or building of dikes, and not to cutting down trees or driving heavy vehicles across fragile tundra -- would be inconsistent with the

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clearly articulated legislative concern for the habitat and fish and game in special areas, and with the explicit review provided for the "anticipated use." It is unlikely that the legislature intended the notice and approval statutes to be so narrowly construed as to undermine fish and game protection.

However, we do not believe that an extremely broad reading -- under which ADF&G could require an ADF&G permit for any use, lease, or disposal of land in special areas -- is supportable. The language of AS 16.20.050, AS 16.20.060, AS 16.20.250 and AS 16.20.260 precludes an interpretation which would grant ADF&G permit authority over transactions which are not likely to affect fish or game or their habitat.

Consequently, we believe that the most logical reading of AS 16.20.060 and AS 16.20.260 gives ADF&G permit authority in special areas over any activity which ADF&G determines may affect fish or game or their habitat. That interpretation is consistent with the language of the statutes and the general rule articulated by the Alaska Supreme Court that "conservation laws such as fish and game laws should be liberally construed to achieve their intended purpose." Kenai Peninsula Fisherman's Cooperative Association, Inc. v. State, 628 P.2d 897, 903 (Alaska 1981). It is reasonable to assume that the legislature intended to give meaningful review authority in refuges and critical habitat areas to the agency primarily responsible for fish and

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game conservation -- ADF&G. (In order to further clarify what activities are encompassed by ADF&G permit authority under AS 16.20.060 and AS 16.20.260, it would be strongly advisable for ADF&G to adopt a regulation identifying activities it has determined may affect fish or wildlife or their habitat in special areas.) 29/

For a use, lease, or disposal that will not affect fish or wildlife or their habitat, AS 16.20.050 and AS 16.20.250 still require that ADF&G be notified. The purpose of that notification is to provide ADF&G the opportunity to comment on the lease or disposal to DNR or other relevant agencies and, in critical habitat areas, the private land owner. That consultation may be very important to DNR or the private person in evaluating the wisdom of the transfer; for example, if ADF&G anticipates that it would not be able to permit the eventual use to which the land would be put, those involved are likely to benefit from that knowledge.

E. Water appropriation and use

DNR has the authority to adjudicate water rights among competing claimants and to issue water appropriation permits, as discussed in section II B above. AS 46.15. In doing

29/ See discussion of the need for regulations in section V, under question B, below.

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so, DNR is to consider a number of factors, including the effect on fish and game. AS 46.15.080(b)(2); Alaska Const. art. VIII, § 13. ADF&G, on the other hand, has no authority to appropriate water to particular individuals, although it has a role in commenting to DNR on permit applications and providing information which will assist DNR in fulfilling its constitutional and statutory responsibility to consider fish and game.

However, before use can be made of water appropriated by DNR to a particular claimant, in certain instances a permit must also be issued by ADF&G. If the water is from an anadromous fish stream, the procedures of AS 16.05.870, described in section II D above, must be followed, which may affect how the water appropriated by DNR can be taken. Similarly, if the water appropriated is in a special area, the provisions discussed in section IV C and D above apply. If the method of taking or the use within the special area may affect fish or game or their habitat in a refuge or a critical habitat area, ADF&G has permit authority under AS 16.20.060 and AS 16.20.260. If the use is in a sanctuary, the ADF&G permit authority is found in AS 16.20.120 and AS 16.20.170.

This distribution of complementary DNR and ADF&G authorities over water is analogous to those over land. For example, as discussed in section IV D above, DNR has the power to lease a piece of refuge land, as it has to appropriate water in a

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refuge. However, in this example. ADF&G has permit authority over any use of the leased land that might affect fish or game or their habitat, as it has over use of the appropriated water which could have those effects.

Given the related DNR and ADF&G water appropriation and use authorities over special areas and anadromous fish streams, it is very important that the two departments cooperate and communicate during the water permitting processes. This will ensure that an applicant is not accidentally misled into assuming that only DNR has permitting authority. Further, comment to DNR by ADF&G early in the DNR permitting process will ensure that an applicant is aware of ADF&G's separate and additional AS 16 permitting structures.

F. Prohibition on transfer of state land out of refuges

In refuges, a change in land status out of state ownership could threaten the overall legislative purposes for the refuge by virtue of the different statutory standards that come into play. 30/ In refuges, if state land were conveyed in fee out of state ownership, the land would no longer be refuge land and ADF&G would be unable to require review and approval of later

30/ This discussion does not apply to those refuges which have been incorporated by reference from the national wildlife refuge system, since they do not consist of state land. AS 16.20.030(a).

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use of the transferred parcel, regardless of the effect on fish, game or habitat. This result would do violence to the statutory scheme as a whole.

Moreover, if DNR had the authority to effectively extinguish a legislatively created refuge by transferring state land in fee, it would be contrary to the separation of powers doctrine. The doctrine of separation of powers is implicit in the Alaska Constitution, and precludes one branch of government from interfering with the proper functioning of another branch. State v. Williams, 681 P.2d 313, 315 n.2 (Alaska 1984). This doctrine places primary responsibility for the conduct of legislative activities upon the legislature. Van Brunt v. State, 653 P.2d 343, 346 (Alaska App. 1982). Thus, the executive branch (here, DNR) cannot undo (by transferring state land in refuges out of state ownership) the legislature's actions (providing certain protections for fish and game and their habitat on refuge lands).

Further, it is a fundamental principle of statutory construction that statutes are to be read as a whole, in context, and in a manner that avoids absurdities and carries out legislative intent. 2A N. Singer, Sutherland Statutory Construction §§ 45.12 and 46.05 (4th ed. 1984). We believe that, under those guidelines, refuge land may not be transferred in fee out of state ownership unless such transfer is specifically authorized

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by the legislature, as, for example, in AS 16.20.034(i), which provides for acquisition by the City and Borough of Juneau of state land in the Mendenhall Wetlands refuge for three specified purposes.

Critical habitat areas, unlike refuges, include both private and state land (except for the Anchor River/Fritz Creek area, which includes only state lands). AS 16.20.230. This fact probably reflects legislative recognition that statutory protections in critical habitat areas should extend beyond just state lands, and that multiple land ownership exists in these areas.

Because the legislature specified that the purposes for critical habitat areas include restricting all other uses not compatible with the primary purpose of protecting and preserving the habitat (AS 16.20.220), the legislature must not have intended to allow unrestricted conveyances (in fee) of land out of critical habitat status -- i.e., to federal or municipal entities that are not subject to the notice and permit requirements of AS 16.20.250 and AS 16.20.260. The legislature did not prohibit conveyances per se, but based on the same separation of powers principles articulated above, we interpret AS 16.05.220 as requiring that any fee transfers of state lands in critical habitat areas to private, municipal, or federal ownership, be subject to covenants running with the land that make the land subject to the protections of AS 16.20.240 -- AS 16.20.270.

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Without such protections, DNR could effectively dissolve legislatively created critical habitat areas.

The necessity for including protective covenants in conveyances in fee of state land does not apply to land held in private ownership at the time the critical habitat area was established, because private citizens are not subject to the separation of powers principle and their actions cannot be restricted based on this doctrine. Moreover, had the legislature intended to prohibit or restrict alienability of privately held lands in critical habitat areas, it would presumably have so stated in the legislation. Thus, a private landowner must give ADF&G notice of intent to convey land in fee under AS 16.20.250, but the restrictions of AS 16.20.260 do not apply, and there is no basis for requiring covenants in such private conveyances.

G. Summary and examples

Thus, we believe state land in refuges, as well as sanctuaries, 31/ cannot be conveyed in fee out of state ownership absent legislative authorization. Further, we believe that ADF&G and the boards in combination have permit authority over certain activities within refuges (consisting of state owned land) and critical habitat areas (consisting in almost all cases

31/ AS 16.20.140 and AS 16.20.170.

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of both private and state owned land). It is clear from both AS 16.20.060 and AS 16.20.260 that plans for any anticipated use are reviewable and that under the most supportable interpretation, they must be approved before the use can proceed if ADF&G determines that it would be likely to affect fish or wildlife or their habitat. This does not supplant DNR's separate authorities discussed in sections II B and C above, but it is, rather, in addition to them. 32/ Some examples may be helpful.

If an individual wished to lease a piece of refuge land and to construct on it a boat-launching facility, DNR could evaluate the conveyance under the relevant statutes and regulations, giving notice to ADF&G as required by AS 16.20.050, and determine whether or not under the relevant DNR provisions the lease is in the state's best interest and could be approved. In doing so, DNR could consider any input from ADF&G, but would not be bound by it. However, ADF&G would at the same time be reviewing the proposed plans and specifications for the boat-launching facility to evaluate possible impact on fish, game, or their habitat. If a permit were not issued by ADF&G, the individual could not

32/ We do not mean to suggest that DNR and ADF&G may not work together and make their decisions simultaneously. Indeed, such an approach would be consistent with the Administration's ongoing efforts at "permit reform" and, as discussed in section II E above, is provided for currently in the coastal zone consistency review process established in 6 AAC 50.

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construct the facility on the land, even if the lease were approved by DNR. If an individual wanted to commercially harvest trees on refuge land, ADF&G would be again notified under AS 16.20.050 and could require a permit under AS 16.20.060. Meanwhile, DNR would be reviewing the proposal under its own authority, such as AS 38.05.115. Approval from both agencies, each operating under its separate statutory standard, would be necessary. If the activity were to be located in or were to affect the coastal zone, the consistency review procedures in 6 AAC 50 would apply.

If an owner of private land in a critical habitat area wished to sell or lease his parcel to another individual, the owner would be required to notify ADF&G under AS 16.20.250, but ADF&G approval would not be required. (Similarly, DNR would notify ADF&G if it were considering a sale or lease of state land in critical habitat areas, but ADF&G approval would not be required.) If, however, the land owner wished to cut down all the trees on his parcel to achieve a better view of the nearby mountains, he would again notify ADF&G under AS 16.20.250, but in this instance, since something more than a change in paper status is involved, and if ADF&G determined that fish or wildlife or their habitat could be affected, ADF&G could require that he not proceed without a permit under AS 16.20.260.

If a tour guide wanted to set up expeditions into a

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sanctuary, he could be required by the boards to obtain a permit under AS 16.20.120 and AS 16.20.170, and DNR would not be involved. If a company, on the other hand, wanted to lease sanctuary land for oil exploration, the lease would be governed by DNR regulations under AS 16.20.140, and the exploration would be subject to state and federal laws and limitations jointly determined by DNR and ADF&G under AS 16.20.130. The boards could also impose requirements not inconsistent with those laws and limitations under AS 16.20.120 and AS 16.20.170.

V. SPECIFIC QUESTIONS FROM DNR AND ADF&G

Both DNR and ADF&G have posed specific questions about their complementary authorities in special areas. 33/ Although

33/ In addition, DNR has asked what authorities it holds in yet a fourth type of legislatively created area, state range areas. State range areas are set out in AS 16.20.300 through AS 16.20.360, and two are established. The Delta Junction Bison Range Area is described in AS 16.20.300, and the Matanuska Valley Moose Range is described in AS 16.20.360.

For the Delta Junction Bison Range Area, ADF&G is directed by AS 16.20.310 to develop a plan for bison which includes activities such as planting grains and other wild forage, altering existing plant cover, and tilling in order to produce forage. ADF&G is directed by the statute to "coordinate as closely as possible" with "the activities of the Agricultural Development Authority, Department of Natural Resources, relating to the Big Delta Agricultural Project." (No other reference to this "Authority" appears to be contained in the Alaska statutes.)

The Matanuska Valley Moose Range is established for several purposes, including improving and enhancing moose popu-
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the answers are largely provided above, the questions (somewhat paraphrased) and specific answers are set out here.

Question A: Is the authority exercised by ADF&G under AS 16.20.050 and AS 16.20.060 on state game refuges exclusive of the authority of DNR under Title 38 on state lands? Does DNR retain its traditional role as lessor of interests in land and permitter of certain activities in special areas, while ADF&G holds a veto over the actual exercise of these activities within refuges, critical habitat areas and sanctuaries? Do ADF&G or the boards have the authority to give controlling approval, conditional approval, or denial to a use, lease, or disposal of real property otherwise allowed by DNR in state refuges, critical habitat areas, and game sanctuaries?

Answer: As discussed in section IV above, the statutory authorities of ADF&G and the boards in relation to the

(Footnote continued),
lations and habitat and perpetuating public multiple use of the area through fishing, grazing, forest management, hunting, trapping, and mineral and coal entry and development. AS 16.20.340. The management of fish and game resources in the range is the responsibility of ADF&G, under AS 16.20.350(a). Management of the surface and subsurface estate is the responsibility of DNR, which is directed to adopt a management plan for the range that reflects the concurrence of ADF&G. AS 16.20.350(b). DNR is authorized by AS 16.20.250(c) to adopt regulations governing the public use of the area and is specifically directed to consult with ADF&G before the adoption. Thus, the DNR plan for the area must be approved by ADF&G, but the regulations may be adopted after consultation with ADF&G, even (presumably) if agreement cannot be reached between the two departments.

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authorities of DNR are of several kinds. Some authorities must be exercised after consultation, some are joint authorities requiring concurrence, and some are separate and may be independently exercised (although public policy would often best be served by cooperative joint decision making).

ADF&G, in combination with the boards, does have permit authority to approve, condition, or deny activities which could affect fish or game on their habitat in those special areas, whether or not approved by DNR. Similarly, DNR has certain authorities within those areas, and even if a use were one which ADF&G would approve, if DNR also had jurisdiction and for some separate reason did not approve it, it could not be carried out. Thus, it is misleading to characterize ADF&G's authority as a "veto" over DNR's authority, just as it would be inaccurate to characterize DNR's authority as a "veto" over ADF&G's authority. Each is necessary and each is to be exercised independently, under the relevant statutory authorities and standards.

Question B: Do ADF&G or the boards have the authority to adopt regulations setting guidelines for the issuance of their permits in state refuges, critical habitat areas and sanctuaries? Do ADF&G or the boards have the authority to adopt plans for state refuges, critical habitat areas, and game sanctuaries for the purpose of guiding the agency in making permit decisions, species enhancement decisions, species harvest decisions,

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scientific investigations, and decisions designating specific geographic areas as appropriate locations for particular uses?

Answer: As discussed in section III above, this office has already concluded that ADF&G and the boards have implied authority to adopt regulations governing issuance of permits in refuges and critical habitat areas and more explicit authority in sanctuaries. 1982 Op. Att'y Gen. No.1 (Mar. 4). If guidelines are to be used in evaluating permit applications rather than a case-by-case assessment directly under the statute, the guidelines must be contained in regulations. In Kenai Peninsula Fisherman's Cooperative Association Inc. v. State, 628 P. 2d 897, 906 (Alaska 1981), the court discussed the broad definition of "regulation" contained in AS 44.62.640(a)(2), noting that it includes manuals, policies, instructions, guides to enforcement, interpretive bulletins, interpretations, and the like. Id. at 904-05.

One indicator of a regulation is that it "implements, interprets or makes specific the law enforced or administered by the state agency," and another is that it "affects the public or is used by the agency in dealing with the public." Id. at 905. General guidelines for issuing permits in special areas would indeed fit both those descriptions, and thus should be adopted by

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ADF&G as regulations. 34/

With respect to the authority to adopt plans for the purposes of guiding species enhancement decisions, species harvest decisions, scientific investigations, and decisions allocating lands and waters for particular uses, the same principles apply. 35/ If the plan would affect the public or be used in dealing with the public, then the plan must be adopted as a regulation. If the plan relates "only to internal management," then the definition of "regulation" in AS 44.60.640(a)(2) does not apply and it need not be adopted as a regulation. For example, an internal plan on where to use ADF&G's resources to enhance habitat or to conduct scientific investigations would not need to be adopted as a regulation.

34/ This conclusion can be contrasted to adoption by DNR of land use plans. Specific DNR statutes set out procedures (including detailed notice requirements) and criteria governing land use planning and classification, and those have been elaborated on in DNR regulations. AS 38.04.065, AS 38.05.945, 11 AAC 55.010 -- 11 AAC 55.280. This differs from ADF&G authority in special areas, for which no such detailed procedural mechanisms are established and which are subject to the Administrative Procedure Act, AS 44.62.

35/ For two refuges, Mendenhall Wetlands and Creamer's Field, the statutes specifically direct ADF&G to develop plans. AS 16.20.034(g) and 039(d). For the Anchor River/Fritz Creek critical habitat area, AS 16.20.230(d) specifically directs ADF&G in consultation with DNR to prepare a plan, concurred in by the Kenai Peninsula Borough for some portions of the area, by July 1, 1989, to be submitted to the legislature for approval.

. Hon. Esther Wunnicke
· Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

November 8, 1985
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Decisions about harvest of fish and game by the public lie within the authorities of the boards, 36/ and a plan by ADF&G could not directly control that, even if it were adopted as a regulation. However, ADF&G could suggest a plan which the boards could choose to ignore or follow in exercising their own regulatory authorities over the taking of fish and game.

Whether or not ADF&G and the boards have authority to designate geographic areas as appropriate locations for particular uses hinges on whether that furthers the purposes of protecting and preserving the natural habitat and the fish and game of the special areas, or any of the more particular purposes of some of the individual refuges. If such designation facilitates the protection and preservation of the habitat or the fish or game, it should be a component of ADF&G or board regulations governing permitting uses in special areas. For example, if in a particular special area, ADF&G determined that on portion A it was possible to build boardwalks without adversely affecting fish or game or their habitat, but on portion B it was not, then that could be a component of the plan for the special area, which would then have to be adopted in regulation since it would guide permitting decisions involving the public use of the special

36/ Those authorities are found in AS 16.05.251, AS 16.05.255, AS 16.20.040, AS 16.20.120, and AS 16.20.240.

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
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area. In contrast, if ADF&G determined that portion A was a higher priority for a scientific investigation than portion B, ADF&G might develop a plan for investigation that would direct its personnel and resources to portion A first. That would not need to be adopted as a regulation, since it relates only to internal management.

Question C: We assume that the statutes contemplate cooperation in the planning, management and regulation of critical habitat areas, refuges and sanctuaries. Do the statutes imply specific procedures for cooperation in deciding the use of lands and waters in these areas?

Answer: Statutory obligations upon the two departments to consult and cooperate with one another or with other entities are mandatory and must be meaningfully fulfilled. Provisions which establish consulting mechanisms are undeniably important to achieving the most thorough compilation of information and understanding of the data and the potential consequences of various actions. See 1985 Inf. Op. Att'y Gen. (Sep. 11; 366-105-86). Thus, even when consultation is not required by statute, it is highly desirable when the subject matter of the possible action concerns both departments.

In some cases, outlined in section II C above, AS 16.20 specifies that cooperation and consultation is required between DNR and ADF&G. For example, in the Mendenhall Wetlands state

Hon. Esther Wunnicke
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game refuge, DNR is specifically designated to manage the surface and subsurface estate, but any actions by DNR which would affect the habitat are to conform with a plan adopted by ADF&G. AS 16.20.034(g). Another example is found in AS 16.20.130, which subjects oil and mineral exploration and development in the sanctuaries to, among other things, limitations jointly determined by DNR and ADF&G. A further example is the responsibility of DNR (and other governmental agencies) to notify ADF&G of any anticipated use, lease, or other disposal of land in refuges or critical habitat areas. AS 16.20.050 and AS 16.20.250. Obviously, unless ADF&G is notified, it would be difficult for it to review proposed actions.

Also, as discussed in section IV above, in some instances DNR is required by its own statutes and regulations to consult with ADF&G before taking action.

Additionally, as discussed in detail in section II E above, 6 AAC 50 establishes a procedure for consistency review under the ACMP for activities in or affecting the coastal zone, providing a mechanism for inter-departmental comment and cooperation in making permit decisions. Although not mandated by statutes, the departments could by agreement follow a similar process in exercising their authorities outside the coastal zone.

VI. CONCLUSION

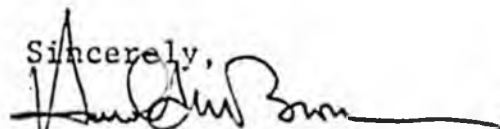
The attached chart summarizes the authorities of the

Hon. Esther Wunnicke
Commissioner, DNR
Hon. Don W. Collinsworth
Commissioner, ADF&G
File 366-045-84 & 366-122-84

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two departments which are separate yet complementary. The Department of Natural Resources has many general authorities with regard to state-owned land, as well as specific authorities in state game refuges and sanctuaries. Some of those authorities must be exercised in conjunction with the Department of Fish and Game, some must be exercised after consulting with the Department of Fish and Game, and some may be independently exercised. The Department of Fish and Game and the Boards of Fisheries and Game have specific authorities in state game refuges, game sanctuaries, and critical habitat areas. Some of the authorities are to be exercised in conjunction with DNR, but for the three types of special areas, the Department of Fish and Game and the Boards of Fisheries and Game have separate permit authority which may be exercised independently of the Department of Natural Resources. In any event, any departmental actions which may affect the coastal zone must be consistent with the ACMP, and the consistency review process established in 6 AAC 50 is an example of inter-departmental coordination that might be useful statewide.

Sincerely,



Harold M. Brown
Attorney General

Attachment

SUMMARY OF DNR/ADF&G
 AUTHORITIES IN SPECIAL AREAS
 (AG # 366-045-84 and 366-122-84)

	Refuges	Critical habitat areas	Sanctuaries
<u>Consists of state land only</u>	X*		X
<u>Consists of state and private land</u>		X**	
<u>State land cannot be transferred in fee without specific legislative authorization</u>	X		X
<u>Land can be leased only for oil and mineral exploration and development (by DNR)</u>			X
<u>Oil and mineral exploration and development governed by state and federal laws and regulations, and by limitations jointly determined by DNR & ADF&G</u>			X
<u>Boards may regulate all activities and uses not inconsistent with oil and mineral exploration and development</u>			X
<u>Leases and other paper changes of state land status executed by DNR, but ADF&G must be notified first</u>	X		
<u>Sales, leases, and other paper changes of land status executed by private land owner or DNR, but ADF&G must be notified first</u>		X***	
<u>ADF&G and boards may regulate those activities which they determine may affect fish, game or their habitat</u>	X	X	X

- * Except for the units which have incorporated by reference from the national wildlife refuge system. AS 16.20.030(a).
- ** Except for the Anchor River/Fritz Creek critical habitat area, which consists of state land only.
- *** Transfers of state land must be subject to covenants running with the land that make it subject to the protections of AS 16.20.240 -- AS 16.20.270

TELECOPY COVER SHEET

FAIRBANKS INFORMATION OFFICE

TO: JMU

FOR: Sen Coughill 465-4745

PHONE: _____

FROM: Paul Metz PHONE: 479-2874

INSTRUCTIONS: Call you pick up ASAP

DATE/TIME SENT: 4/8/87 SENT BY: FML L10

PLEASE ACK. RECEIPT: HOLD FOR PICK-UP:

NUMBER OF PAGES: 2 (NOT COUNTING COVER SHEET)

April 8, 1987

The Hon. John B. Coghill
Alaska State Senator
Capitol Building, Room 30
Juneau, Alaska 99801

Re: SB 55, Proposed Minto Flats State Game
Refuge.

Dear Senator Coghill:

The establishment of the proposed State Game Refuge will have several serious detrimental effects on the Alaska economy. Those effects must be compared to the positive effects of enhanced wildlife preservation.

First, the international monetary markets view Alaska as a poor choice for investment particularly in the natural resource industries. The perception among investment bankers and corporate directors is that both the federal and state governments are opposed to resource development in Alaska. This perception is based on actions that have withdrawn 160+ million acres of federal land from access under the mining laws and have effectively closed other large areas of federal land through the land planning and regulatory processes. Today, over 70% of the major mineral occurrences are on land closed to mineral development. In addition, numerous law suits brought by the environmental lobby have delayed major projects to the point where a fair return on investment cannot be had. Another large state land withdrawal regardless of its potential for mineral development will only strengthen the attitude that Alaska is not interested in resource utilization and economic diversification.

Second, the Minto Flats area is part of what is known geologically as the Yukon-Tanana Uplands Schist Terrane. This terrane has produced 20+ million ounces (\$8 Billion in gross value) of placer gold. Areas of past placer gold production are prime targets for lode gold exploration and central Alaska is no exception. Major North American gold exploration programs are underway from South Carolina to the Klondike and from Newfoundland to Southern California. North America is currently the most cost effective place in the world to search for gold and gold is the major target for international mineral investment. However, Alaska is not participating in this major activity not because of lack of geologic potential or adverse economic climate but because of the lack of a reasonable political and regulatory climate.

FAIRBANKS EXPLORATION INC.

P.O. Box 82549 • Fairbanks, Alaska 99708 • (907)479-7547

①

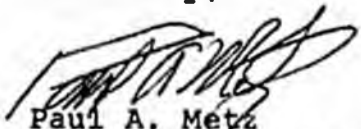
The Hon. John B. Coghill
April 8, 1987
Page 2

Third, the Upland areas immediately adjacent to the proposed refuge have been examined in a cursory fashion by the various state and federal resource agencies. Several mineral occurrences in the area have indications of the potential for world class gold mines. The geology of one occurrence South of Livengood is a near perfect analog to the largest gold mine in the world located in the Soviet Union. The Soviet deposit at Marantau produces over 700,000 ounces of gold per year with a gross annual value of \$280 million. The expected mine life is in excess of 20 years. The development of a similar deposit in Interior Alaska would result in the creation of several thousand new jobs. The establishment of yet another wildlife refuge near these target areas will make the acquisition of capital to adequately evaluate and develop these occurrences a near impossible task.

Fourth, the rivers that drain into the proposed refuge have their headwaters in the historic Fairbanks and Livengood mining districts. Currently, federal Fish and Wildlife managers are attempting management control over headwater areas of federal refuges. Similar actions by the state would result in effective closure of Alaska's largest gold producing area.

Currently, there are mechanisms for proper management of wildlife within the Minto Flats area. These mechanisms must be implemented through enforcement of existing laws without the creation of new laws. The active enforcement of our existing laws will tend to send positive rather than negative signals to the international investment community. Such positive signals will enhance levels of investment and economic diversification in Alaska.

Sincerely,



Paul A. Metz
Chairman of the Board

cc: Members of the Legislature
Governor Cowper

4/2/87

Draft Amendments to SB 55 Minto Flats State Game Refuge

(b) The Minto Flats State Game Refuge is established to ensure

(1) the protection and enhancement of habitat;
(2) the conservation of fish and wildlife; and
(3) to guarantee the continued use and enjoyment by the public of hunting, fishing, trapping, and other uses conducted in a manner compatible with the the protection of habitat and the conservation of fish and wildlife. According to the Constitution of the state of Alaska.

(c) The state may not acquire by eminent domain privately owned land within the Minto Flats State Game Refuge, but may acquire privately owned land by purchase, exchange, or otherwise for inclusion in the Minto Flats State Game Refuge.

new section : All sections after this one are re-lettered

(d) The state when establishing a management plan for the refuge may not, or for lack of a management plan for the refuge may not, adopt or recommend, regulations, stipulations, permits, or other restrictions on the use of land, water, or land and water resources outside, upstream, or adjacent to, the refuge in order to fulfill (b) of this section.

(e) Public access to the Minto Flats State Game Refuge by means of horse, boat, aircraft, dog team, snowmachine, or other means consistent with (b) (3) of this section, may not be prohibited.

(f) Access to and from [REASONABLE INGRESS TO AND EGRESS FROM] private property within the Minto Flats State Game Refuge shall be guaranteed through access corridors established through agreement between the Department of Natural Resources, the Department of Fish and Game, and the private property owner(s) involved.

(g) [same wording as in (f) of CS.]

(h) ~~In~~ The Minto Flats State Game Refuge management plan [THE COMMISSIONER OF FISH AND GAME] shall recognize the existence of historic trails and shall provide access across the refuge to the extent consistent with (b) of this section.

(i) In preparing the Minto Flats State Game Refuge management plan the commissioner of natural resource may exercise his/her authority under AS 38.05.185 - 38.05.275.

(i) The authorities of section (e) of AS. 41.17.230 shall be retained by the Commissioner of Natural Resources in the management of the Minto Flats State Game Refuge

TELECOPY COVER SHEET
 FAIRBANKS INFORMATION OFFICE

TO: Jme

FOR: Senate Resources Comm. - Senators

Coghill, Fischer, Jones, Duncan, Zharoff, Eliason,
& Sturgulewski PHONE: _____

FROM: _____ PHONE: _____

INSTRUCTIONS: Please make copies for the above -

Testimony for a meeting TODAY at 1:30 PM.

DATE/TIME SENT: 12:00 SENT BY: Annie

PLEASE ACK. RECEIPT: HOLD FOR PICK-UP: _____

NUMBER OF PAGES: 2 (NOT COUNTING COVER SHEET)

MINTO FLATS STATE GAME REFUGE

Whereas, SB 55 has been introduced in the Legislature to create a Minto Flats State Game Refuge in the Minto Flats area; and

Whereas, the proposed refuge is intended to protect and enhance habitat, conserve fish and wildlife, and allow the continuation of hunting, fishing, trapping, and other compatible uses; and

Whereas, the Department of Natural Resources Tanana Basin Area Plan, already in effect, is capable of offering similar resource protection; and

Whereas, State land in the Minto Flats area should continue to be managed under the provisions of the Tanana Basin Area Plan; and

Whereas, much of the proposed refuge is already designated as the Minto Game Management Area for the purpose of game management; and

Whereas, The Minto Flats area should continue to be designated as the Minto Game Management Area for the purposes of managing game resources; and

Whereas; there is no identifiable impending threat to the habitat or resources of Minto Flats which makes its designation as a game refuge desirable or necessary; and

Whereas; Minto Flats is an important recreation area for the surrounding communities; and

Whereas; land designations such as "game refuge" have historically facilitated stringent restrictions, management plans and court decisions which decrease the ability of the public to access the land and utilize its resources in even a traditional manner; and

Whereas; such stringent restrictions increase over time to the point that the original purpose for the designation is negated; and

Whereas; the proposed refuge includes portions of existing trails which are protected by RS 2477 rights-of-way, and which are important as access to and through the area, and

Whereas; the proposed refuge would overlie portions of identified corridors for possible future transportation system extensions west from Nenana, and north and west from Dunbar, to western Alaska, and/or to mineral deposits in the Kohnuk River area; and

Whereas, the proposed refuge overlies one of the alignment alternatives for the proposed TransAlaska Gas System Pipeline; and

Whereas; the refuge proposal includes a mineral closure for which there is no need, and study has not been adequately done on whether or not there are mineral resources, such as deep placers that might bring the state millions of dollars in revenue, and the majority of Alaska's mineral resources are already in a mineral closed area without adequate studies, and

Whereas; the Livengood/Tolovana Mining District and a major portion of the Fairbanks Mining District are located in the headwaters of rivers that drain into the Minto Flat areas. These mining districts are very concerned about the ramifications of having a refuge located in their drainages.

NOW THEREFORE BE IT RESOLVED that the State land in the Minto Flats area should NOT be designated as a State Game Refuge.

Passed this 25th day of March, 1987 at the Miners Meeting, 1987 Placer Mining Conference.

Leslie Noyes

Leslie Noyes, Miners Meeting Moderator

P.O. Box 73824
FAIRBANKS 99707
— — —
452-6227

(2)

PUBLIC OPINION MESSAGE

DEAR: SENATOR COGHILL

NAME: JAMES BARKER

TITLE:

ADDRESS: 671 ECHO ACRES ROAD

CITY: FAIRBANKS

ZIP: 99701

PHONE: 479-4277

BILL NO: SB 55

SUBJECT: MINTO FLATS STATE GAME REFUGE

MESSAGE: I WOULD LIKE TO EXPRESS MY OPPOSITION TO ESTABLISHMENT OF MINTO FLATS WILD LIFE REFUGE FOR TWO PRINCIPAL REASONS. 1) POTENTIALLY IT MAY BLOCK CRITICAL TRANSPORTATION ROUTES TO WESTERN ALASKA. 2) IT FURTHER ESTABLISHES THE DEPT. OF FISH AND GAME AS A LAND MANAGEMENT AGENCY AT A TIME WHEN ALASKA IS ALREADY OVERWHELMED BY A QUILT-WORK OF INDEPENDANT LAND OWNERSHIP AUTHORITIES. I URGE YOU TO RETAIN THE MINTO FLATS AREA AS OUTLYING IN THE TVAT.

POMID: 07103024

DATE: 04/01/87

TIME: 10:30:24

LIONAME: FAIRBANKS LIO

COPIES: SENATORS

DUNCAN
ELIASON
FISCHER
JONES
STURGULEWSKI
ZHAROFF
BENNETT
FAHREIKAMP

May 27, 1986

Dear Honorable Member of the Alaska Legislature:

We the undersigned users of the Minto Flats area, urge you to introduce the enclosed legislation to create the Minto Flats State Game Refuge.

The abundance of game and nongame fish and wildlife species in the Minto Flats area is widely recognized (e.g., moose, black bear, beaver, muskrat, river otter, wolf, red fox, waterfowl, northern pike, whitefish [including sheefish], and salmon). The Sport Fish Division of the Alaska Department of Fish and Game estimated that during 1984, 819 anglers spent 1829 days fishing the Minto Flats area and harvested over 2300 fish. The United States Fish and Wildlife Service has been conducting annual aerial waterfowl breeding population surveys in Alaska for 30 years; they state that "The Minto Flats area is one of the highest quality waterfowl nesting habitats on the North American continent." Minto flats is a very popular human use area for hunting, fishing, trapping and other outdoor uses. The Alaska Department of Fish and Game reports that during the 1984 waterfowl season 5,094 hunter days (6.7% of the total waterfowl hunter effort in the state) were expended hunting waterfowl in the Minto area. The estimated 1984 harvest in the Minto area was 11,685 ducks (11.5% of total state harvest) and 777 geese (5.1% of total state harvest).

It is our intent in proposing the creation of the Minto Flats State Game Refuge that the legislation 1) recognize the high value of fish and game and their habitat in the area; 2) guarantee the perpetuation of hunting, fishing, and trapping activities in accordance with harvest regulations as established by the Boards of Fisheries and Game; 3) guarantee historical and customary access to private lands; and 4) perpetuate nonconsumptive uses. It is our intent that the following human uses will continue without further agency authorization unless otherwise provided by law or found to be incompatible with the purpose for which the refuge is established:

- (1) Hiking and backpacking, horse and dog team travel, cross-country skiing, snowmachining, boating, landing of aircraft and camping (to include campfires);
- (2) hunting, fishing and trapping; and

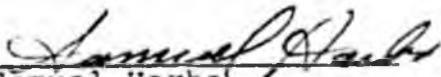
- (3) other related uses that are temporary in duration and have no foreseeable adverse effect on vegetation, drainage, soil stability, fish, game or their habitat.

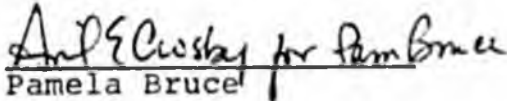
When the compatibility of a use is questioned, the Department of Fish and Game will conduct specific fact finding efforts, including public meetings, prior to making a final determination.

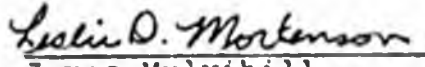
The Department of Fish and Game is to consult with adjacent communities and other interested parties in the preparation of the management plan for the Minto Flats State Game Refuge. It is our desire that the Department of Fish and Game be funded to initiate the management planning process immediately following the legislative designation of this important area.

It is also the objective of this group that this letter of intent be incorporated as part of the legislative record during the establishment of the Minto Flats State Game Refuge.

Sincerely,


Samuel Harbo
Vice President
Alaska Outdoor Council
P.O. Box 73478
Fairbanks, AK 99707

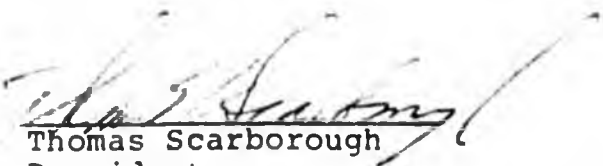

Pamela Bruce
President
Arctic Audubon
940 Kalina Road
Fairbanks, AK 99712

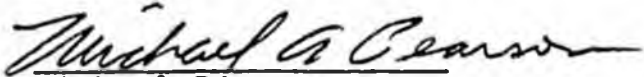

James Mulvihill
President
Cleary Sky Sportsmen Club
P.O. Box 254
Clear, AK 99704


Proposed Minto Flats
State Game Refuge

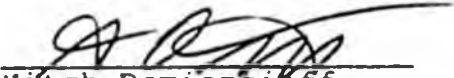
-3-

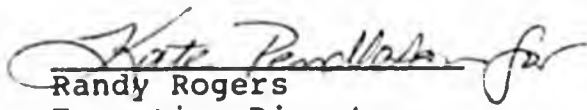
5/27/86



Thomas Scarborough
President
Fairbanks Fish and Game Advisory Committee
1676 Taroka Drive
Fairbanks, AK 99701


Michael Pearson
President
Healy/Clear Fish and Game Advisory Committee
P.O. Box 469
Clear, AK 99704


Lee Titus
Chief
Minto Native Council
General Delivery
Minto, AK 99758


Mitch Demientieff
Chief
Nenana Native Council
P.O. Box 251
Nenana, AK 99760


Randy Rogers
Executive Director
Northern Alaska Environmental Center
218 Driveway
Fairbanks, AK 99701


Robert Charlie
Land Manager
Seth-de-ya-ah Corporation
Box 849
Fairbanks, AK 99707

Proposed Minto Flats
State Game Refuge

-4-

5/27/86

*Oliver Burris by Joe Nava, Chairman,
Minto Flats Refuge Committee*

Oliver Burris
President
Tanana Valley Sportsman Association
Fairbanks, AK 99701

Enclosure

5/27/86

IN THE LEGISLATURE OF THE STATE OF ALASKA
FIFTEENTH LEGISLATURE - FIRST SESSION
A BILL

For an Act entitled: "An Act creating the Minto Flats State Game Refuge."

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

* Section 1. AS 16.20 is amended by adding a new section AS 16.20.037, to read:

Section 16.20.037. Minto Flats State Game Refuge.
(a) All state-owned land and water contained in the following description is established as the Minto Flats State Game Refuge:

Township 1 N., Range 6 W., Fairbanks Meridian
Sections 2 - 11
Sections 14 - 23
Sections 26 - 34

Township 1 N., Range 7 W., Fairbanks Meridian
Sections 1 - 36 All

Township 1 N., Range 8 W., Fairbanks Meridian
Sections 1 - 16
Sections 21 - 28
Section 35: E $\frac{1}{2}$
Section 36

Township 1 N., Range 9 W., Fairbanks Meridian
Sections 1 - 12

Township 1 N., Range 10 W., Fairbanks Meridian
Sections 1 - 12

Township 1 N., Range 11 W., Fairbanks Meridian
Sections 1 - 4
Sections 8 - 17
Sections 20 - 29

Township 2 N., Range 6 W., Fairbanks Meridian
Sections 1 - 36 All

Township 2 N., Range 7 W., Fairbanks Meridian
Sections 1 - 36 All

Township 2 N., Range 8 W., Fairbanks Meridian
Sections 1 - 36 All

Township 2 N., Range 9 W., Fairbanks Meridian
Sections 1 - 36 All

Township 2 N., Range 10 W., Fairbanks Meridian
Section 3
Sections 8 - 10
Section 11: S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$
Section 12: S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$
Sections 13 - 36

Township 2 N., Range 11 W., Fairbanks Meridian
Sections 13-15
Sections 22-27
Sections 34-36

Township 3 N., Range 6 W., Fairbanks Meridian
Sections 13 - 36

Township 3 N., Range 7 W., Fairbanks Meridian
Sections 6 - 8
Section 9: S $\frac{1}{2}$ S $\frac{1}{2}$
Sections 13 - 36

Township 3 N., Range 8 W., Fairbanks Meridian
Section 1
Sections 5 - 10
Sections 14 - 23
Sections 25 - 36

Township 3 N., Range 9 W., Fairbanks Meridian
Section 24: S $\frac{1}{2}$
Section 25
Sections 33 - 36

Township 3 N., Range 10 W., Fairbanks Meridian
Sections 34 - 35

Township 4 N., Range 6 W., Fairbanks Meridian
Sections 2 - 9
Sections 16 - 21

Township 4 N., Range 7 W., Fairbanks Meridian
Sections 1 - 4
Section 5: S $\frac{1}{2}$
Section 6: S $\frac{1}{2}$
Sections 7 - 24
Sections 30 - 31

Township 4 N., Range 8 W., Fairbanks Meridian
Sections 10 - 15
Sections 22 - 27

Sections 30 - 31
Sections 35 -36

Township 5 N., Range 5 W., Fairbanks Meridian
Section 6: $W\frac{1}{2}$
Section 7: $W\frac{1}{2}$
Section 18: $W\frac{1}{2}$

Township 5 N., Range 6 W., Fairbanks Meridian
Sections 1 - 3
Section 4: $SE\frac{1}{4}$
Section 9: $E\frac{1}{2}$
Sections 10 - 15
Section 16: $E\frac{1}{2}$, $SW\frac{1}{4}$
Section 20: $S\frac{1}{2}$
Sections 21 - 29
Sections 31 - 36

Township 5 N., Range 7 W., Fairbanks Meridian
Section 35: $SE\frac{1}{4}$
Section 36: $S\frac{1}{2}$

Township 1 S., Range 6 W., Fairbanks Meridian
Sections 5 - 8
Sections 17 - 20
Sections 29 - 31

Township 1 S., Range 7 W., Fairbanks Meridian
Sections 1 - 36 All

Township 1 S., Range 8 W., Fairbanks Meridian
Sections 1 - 2
Sections 11 - 14
Sections 23 - 26
Sections 35 - 36

Township 1 S., Range 9 W., Fairbanks Meridian
Sections 1 - 36 All

Township 1 S., Range 10 W., Fairbanks Meridian
Sections 7 - 36

Township 1 S., Range 11 W., Fairbanks Meridian
Sections 25 - 26
Sections 35 - 36

Township 2 S., Range 6 W., Fairbanks Meridian
Section 6: $S\frac{1}{2}NW\frac{1}{4}$, $S\frac{1}{2}$
Section 7: All N. and W. of the Alaska
Railroad ROW
Section 18: All N. and W. of the Alaska

Railroad ROW
Section 19: All N. And W. of the Alaska
Railroad ROW

Township 2 S., Range 7 W., Fairbanks Meridian
Sections 1 - 12
Section 13: NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$
Section 14: W $\frac{1}{2}$
Sections 15 - 22
Section 23: W $\frac{1}{2}$
Section 24: All N. and W. of the Alaska
Railroad ROW
Section 27: NW $\frac{1}{4}$
Section 28 - 32
Section 33: NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$

Township 2 S., Range 8 W., Fairbanks Meridian
Section 1
Sections 12 - 13
Sections 24 - 25
Section 36

Township 2 S., Range 9 W., Fairbanks Meridian
Sections 1 - 12
Section 17: W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 18
Section 19: N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$

Township 2 S., Range 10 W., Fairbanks Meridian
Sections 1 - 20
Section 21: NE $\frac{1}{4}$, W $\frac{1}{2}$
Section 22: NW $\frac{1}{4}$
Section 24: N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$
Sections 29 - 31

Township 2 S., Range 11 W., Fairbanks Meridian
Sections 1 - 5
Sections 7 - 36

Township 2 S., Range 12 W., Fairbanks Meridian
Sections 25 - 26
Sections 35 - 36

Township 3 S., Range 7 W., Fairbanks Meridian
Section 5: N $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$
Sections 6 - 7
Section 18: NE $\frac{1}{4}$, W $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$

Township 3 S., Range 8 W., Fairbanks Meridian
Section 1
Section 12

Section 13

Section 22: NE $\frac{1}{4}$ (That portion above the ordinary high water mark right bank Tanana River.)

Section 23: N $\frac{1}{2}$, SE $\frac{1}{4}$

Section 24: N $\frac{1}{2}$, SW $\frac{1}{4}$

Section 25: NW $\frac{1}{4}$

Township 3 S., Range 11 W., Fairbanks Meridian

Sections 2 - 10

Section 11: N $\frac{1}{2}$

Section 14: SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$

Sections 15 - 21

Section 22: NE $\frac{1}{4}$, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$

Section 23: NW $\frac{1}{4}$

Section 27: W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$

Sections 28 - 31

Section 32: NE $\frac{1}{4}$, NW $\frac{1}{4}$, SE $\frac{1}{4}$

Section 33: W $\frac{1}{2}$

Township 3 S., Range 12 W., Fairbanks Meridian

Sections 1 - 2

Sections 11 - 14

Sections 23 - 26

Sections 35 - 36

- (b) The Minto Flats State Game Refuge is established to ensure the protection and enhancement of habitat and the conservation of fish and wildlife species dependent thereon; and to guarantee its continued use and enjoyment by the public for hunting, fishing, trapping and other uses compatible with the protection of habitat and the conservation of the fish and wildlife species.
- (c) Public access including, but not limited to, the use of horses, boats, aircraft, dog teams and snowmachines is guaranteed provided that such use is consistent with (b) of this section.
- (d) The state may not acquire by eminent domain privately-owned land within the state game refuge established by this Act but may acquire privately-owned land by purchase, exchange, or otherwise for inclusion in the Minto Flats State Game Refuge.
- (e) Egress and ingress to and from private property within the Minto Flats State Game

Refuge shall be guaranteed through access corridors established through agreement between the Department of Fish and Game and the private property owners involved.

- (f) The Minto Flats State Game Refuge will be managed in accordance with a management plan prepared by the Department of Fish and Game. The management plan will be prepared in a timely fashion in accordance with available funding.

* Section 2. All state-owned land and water within the state game refuge established by this Act are closed to mineral entry under AS 38.05.185 - 38.05.280.

* Section 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

Comments on Minto Flats State Game Refuge

Draft

The Alaska Miners Association (AMA) has reviewed the proposed legislation for the creation of the Minto Flats State Game Refuge. We do not oppose this legislation provided the refuge is established in a manner that recognizes valid existing rights and other resource values. With this in mind, AMA recommends the following sections be considered in an effort to limit administrative descretion and prevent another well intentioned lock-up:

AS 16.20.037 (b) add. Commercial development of forest resources shall be the desired alternative for vegetative manipulation for those areas supporting commercial size timber.

All too often in the past valuable resources have been destroyed for political or administrative expediency, while Alaska residents have been unable to acquire such resources for beneficial use. AMA believes such waste is unnecessary and can be prevented with advanced planning and by working with the public and industry.

AS 16.20.037 (c) Public access is generated to and through the refuge area with priority to be given to the extension of the Alaska Railroad, oil and gas pipelines, and roads to serve the established units of the Tanana Valley State Forest. Location of such access facilities shall be controlled principally by engineering feasibility and economics of construction with due consideration to be given to critical habitat areas and construction timing. Gravel resources available on site shall be made available for such construction. Road access may be regulated with public access closures limited to no more than four (4) months per year. Emergency closures relating to public health and safety or to prevent undue damage to the facilities are exceptions to the above cited closure limit.

All too often in the past, well intentioned special use areas have been created only to be used later, to administratively block critically needed developmental access. Since the Minto flats Refuge area is located in a manner to block desperately needed future access routes and since alternate access routes are neither economically nor technically feasible, AMA believes controls must be included in the legislation to prevent another administrative land lock-up.

Draft

AS 16.20.037 (e) Access to and from private property interest within and adjacent to the Minto Flats State Game Refuge, shall be guaranteed, through joint agreement with the owners of the private property interest. The Department of Fish and Game may establish access corridors for such guaranteed access.

In the past, both State and Federal guarantees of access to inholders have been perverted and used as a means to eliminate viable property rights. AMA believes that guaranteed access rights must be established in a manner that precludes administrative elimination of such access.

AS 16.20.037 (1) and, lack of a management plan shall not be used as a justification to limit or otherwise restrict any of the provisions of this act.

Past experience with both the State and Federal agencies using the planning process to restrict or deny benefits of legislation, particularly to private interest, even though legislation clearly intended no such restrictions, prompts the addition of this clause. AMA believes this qualifier is absolutely necessary to protect private and public rights.

Section 2. The proposed mineral closure should be eliminated in its entirety. There have been mining claims within and adjacent to the refuge area for many years without appreciable problems. The area is rated as having low mineral potential in the Tanana Valley Management Plan and is unlikely to receive significant interest in the near future, but it remains as a virtually unexplored mineral area. It therefore should remain open until scientific data, in sufficient detail to eliminate the area as having mineral potential.

The value and integrity of the proposed refuge will be neither jeopardized nor enhanced by mineral closure. AMA believes that it is in the best public interest to leave the area open to encourage assessment of its mineral potential. The Departments' concern over control of trespass cabins is without merit since there are already laws available to affect such control. While the area has low mineral potential, with mineral closure, it has no mineral potential.

While the Minto Flats area deserves retention and management as an important fish and game concentration area and public use area, the Alaska Miners Association firmly believes that it must not become another lock-up of Alaska's resources. AMA asks that serious consideration be given to the above proposed bill amendments to accomplish a much needed reasonable balance.

1 IN THE SENATE

BY BINKLEY AND KERTTULA

2

SENATE BILL NO. 55

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing the Minto Flats State Game

7

Refuge; and providing for an effective date."

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. 16.20.037. MINTO FLATS STATE GAME REFUGE. (a) The follow-

11

ing state-owned land and water is established as the Minto Flats State

12

Game Refuge:

13

(1) Township 1 North, Range 6 West, Fairbanks Meridian

14

Sections 2 - 11

15

Sections 14 - 23

16

Sections 26 - 34

17

(2) Township 1 North, Range 7 West, Fairbanks Meridian

18

Sections 1 - 36

19

(3) Township 1 North, Range 8 West, Fairbanks Meridian

20

Sections 1 - 16

21

Sections 21 - 28

22

Section 35: E1/2

23

Section 36

24

(4) Township 1 North, Range 9 West, Fairbanks Meridian

25

Sections 1 - 12

26

(5) Township 1 North, Range 10 West, Fairbanks Meridian

27

Sections 1 - 12

28

(6) Township 1 North, Range 11 West, Fairbanks Meridian

29

Sections 1 - 4

1 Sections 8 - 17
 2 Sections 20 - 29
 3 (7) Township 2 North, Range 6 West, Fairbanks Meridian
 4 Sections 1 - 36
 5 (8) Township 2 North, Range 7 West, Fairbanks Meridian
 6 Sections 1 - 36
 7 (9) Township 2 North, Range 8 West, Fairbanks Meridian
 8 Sections 1 - 36
 9 (10) Township 2 North, Range 9 West, Fairbanks Meridian
 10 Sections 1 - 36
 11 (11) Township 2 North, Range 10 West, Fairbanks Meridian
 12 Section 3
 13 Sections 8 - 10
 14 Section 11: S1/2N1/2, S1/2
 15 Section 12: S1/2N1/2, S1/2
 16 Sections 13 - 36
 17 (12) Township 2 North, Range 11 West, Fairbanks Meridian
 18 Sections 13 - 15
 19 Sections 22 - 27
 20 Sections 34 - 36
 21 (13) Township 3 North, Range 6 West, Fairbanks Meridian
 22 Sections 13 - 36
 23 (14) Township 3 North, Range 7 West, Fairbanks Meridian
 24 Sections 6 - 8
 25 Section 9: S1/2S1/2
 26 Sections 13 - 36
 27 (15) Township 3 North, Range 8 West, Fairbanks Meridian
 28 Section 1
 29 Sections 5 - 10

1 Sections 14 - 23
2 Sections 25 - 36
3 (16) Township 3 North, Range 9 West, Fairbanks Meridian
4 Section 24: S1/2
5 Section 25
6 Sections 33 - 36
7 (17) Township 3 North, Range 10 West, Fairbanks Meridian
8 Sections 34 - 35
9 (18) Township 4 North, Range 6 West, Fairbanks Meridian
10 Sections 2 - 9
11 Sections 16 - 21
12 (19) Township 4 North, Range 7 West, Fairbanks Meridian
13 Sections 1 - 4
14 Section 5: S1/2
15 Section 6: S1/2
16 Section: 7 - 24
17 Sections 30 - 31
18 (20) Township 4 North, Range 8 West, Fairbanks Meridian
19 Sections 10 - 15
20 Sections 22 - 27
21 Sections 30 - 31
22 Sections 35 - 36
23 (21) Township 5 North, Range 5 West, Fairbanks Meridian
24 Section 6: W1/2
25 Section 7: W1/2
26 Section 18: W1/2
27 (22) Township 5 North, Range 6 West, Fairbanks Meridian
28 Sections 1 - 3
29 Section 4: SE1/4

1 Section 9: E1/2
 2 Sections 10 - 15
 3 Section 16: E1/2, SW1/4
 4 Section 20: S1/2
 5 Sections 21 - 29
 6 Sections 31 - 36
 7 (23) Township 5 North, Range 7 West, Fairbanks Meridian
 8 Section 35: SE1/4
 9 Section 36: S1/2
 10 (24) Township 1 South, Range 6 West, Fairbanks Meridian
 11 Sections 5 - 8
 12 Sections 17 - 20
 13 Sections 29 - 31
 14 (25) Township 1 South, Range 7 West, Fairbanks Meridian
 15 Sections 1 - 36
 16 (26) Township 1 South, Range 8 West, Fairbanks Meridian
 17 Sections 1 - 2
 18 Sections 11 - 14
 19 Sections 23 - 26
 20 Sections 35 - 36
 21 (27) Township 1 South, Range 9 West, Fairbanks Meridian
 22 Sections 1 - 36
 23 (28) Township 1 South, Range 10 West, Fairbanks Meridian
 24 Sections 7 - 36
 25 (29) Township 1 South, Range 11 West, Fairbanks Meridian
 26 Sections 25 - 26
 27 Sections 35 - 36
 28 (30) Township 2 South, Range 6 West, Fairbanks Meridian
 29 Section 6: S1/2NW1/4, S1/2

1 Section 7: all North and West of the Alaska Railroad
2 right-of-way
3 Section 18: all North and West of the Alaska Railroad
4 right-of-way
5 Section 19: all North and West of the Alaska Railroad
6 right-of-way
7 (31) Township 2 South, Range 7 West, Fairbanks Meridian
8 Sections 1 - 12
9 Section 13: NE1/4, E1/2NW1/4, NE1/4SW1/4, S1/2SW1/2, *Changed in CS*
10 SE1/4
11 Section 14: W1/2
12 Sections 15 - 22
13 Section 23: W1/2
14 Section 24: all North and West of the Alaska Railroad
15 right-of-way
16 Section 27: NW1/4
17 Sections 28 - 32
18 Section 33: NE1/4NE1/4, W1/2NE1/4, W1/2, W1/2SE1/4
19 (32) Township 2 South, Range 8 West, Fairbanks Meridian
20 Section 1
21 Sections 12 - 13
22 Sections 24 - 25
23 Section 36
24 (33) Township 2 South, Range 9 West, Fairbanks Meridian
25 Sections 1 - 12 *changed in CS*
26 Section 17: W1/4NW1/4, NW1/4SW1/4
27 Section 18
28 Section 19: N1/2, N1/2S1/2
29 (34) Township 2 South, Range 10 West, Fairbanks Meridian

1 Sections 1 - 20

2 Section 21: NE1/4, W1/2

3 Section 22: NW1/4

4 Section 24: N1/2, N1/2S1/2

5 Sections 29 - 31

6 (35) Township 2 South, Range 11 West, Fairbanks Meridian

7 Sections 1 - 5

8 Sections 7 - 36

9 (36) Township 2 South, Range 12 West, Fairbanks Meridian

10 Sections 25 - 26

11 Sections 35 - 36

12 (37) Township 3 South, Range 7 West, Fairbanks Meridian

13 Section 5: N1/2NE1/4, W1/2

14 Sections 6 - 7

15 Section 18: NE1/4, W1/2, N1/2SE1/4, SW1/4SE1/4

16 (38) Township 3 South, Range 8 West, Fairbanks Meridian

17 Section 1

18 Section 12

19 Section 13

20 Section 22: NE1/4 (that portion above the ordinary

21 high water mark right bank Tanana River)

22 Section 23: N1/2, SE1/4

23 Section 24: N1/2, SW1/4

24 Section 25: NW1/4

25 (39) Township 3 South, Range 11 West, Fairbanks Meridian

26 Sections 2 - 10

27 Section 11: N1/2

28 Section 14: SW1/4NE1/4, S1/2NW1/4, SW1/4, W1/2SE1/4

29 Sections 15 - 21

- 1 Section 22: NE1/4, W1/2, W1/2SE1/4
- 2 Section 23: NW1/4
- 3 Section 27: W1/2NE1/4, NW1/4, W1/2SW1/4
- 4 Sections 28 - 31
- 5 Section 32: NE1/4, NW1/4, SE1/4
- 6 Section 33: W1/2
- 7 (40) Township 3 South, Range 12 West, Fairbanks Meridian
- 8 Sections 1 - 2
- 9 Sections 11 - 14
- 10 Sections 23 - 26
- 11 Sections 35 - 36

changed CS

12 (b) The Minto Flats State Game Refuge is established to ensure

13 (1) the protection and enhancement of habitat;

14 (2) the conservation of fish and wildlife; and

15 (3) the continuation of hunting, fishing, trapping and

16 other uses compatible with the protection of habitat and the conserva-

17 tion of fish and wildlife.

18 (c) The state may not acquire by eminent domain privately owned

19 land within the Minto Flats State Game Refuge, but may acquire pri-

20 vately owned land by purchase, exchange, or otherwise for inclusion in

21 the Minto Flats State Game Refuge.

22 (d) Public access to the Minto Flats State Game Refuge by means

23 of horse, boat, aircraft, dog team, snowmachine, or other means

24 consistent with (b) of this section may not be prohibited.

25 *changes CS* (e) Egress and ingress to and from private property within the

26 Minto Flats State Game Refuge shall be allowed through access corri-

27 dors established through agreement between the Department of Natural

28 Resources, the Department of Fish and Game, and the private property

29 owners involved.

Changes in (f) & (g) in CS

1 (f) The Department of Fish and Game shall manage the Minto Flats
2 State Game Refuge in accordance with a management plan prepared by the
3 department.

4 (g) State-owned land and water within the Minto Flats State Game
5 Refuge are closed to mineral entry under AS 38.05.185 - 38.05.280.

6 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

(h) Added in CS

Original sponsors: Binkley and Kerttula

1 IN THE SENATE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2

CS FOR SENATE BILL NO. 55 (C&RA)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing the Minto Flats State Game

7

Refuge; and providing for an effective date."

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.C37. MINTO FLATS STATE GAME REFUGE. (a) The follow-

11

ing state-owned land and water is established as the Minto Flats State

12

Game Refuge:

13

(1) Township 1 North, Range 6 West, Fairbanks Meridian

14

Sections 2 - 11

15

Sections 14 - 23

16

Sections 26 - 34

17

(2) Township 1 North, Range 7 West, Fairbanks Meridian

18

Sections 1 - 36

19

(3) Township 1 North, Range 8 West, Fairbanks Meridian

20

Sections 1 - 16

21

Sections 21 - 28

22

Section 35: E1/2

23

Section 36

24

(4) Township 1 North, Range 9 West, Fairbanks Meridian

25

Sections 1 - 12

26

(5) Township 1 North, Range 10 West, Fairbanks Meridian

27

Sections 1 - 12

28

(6) Township 1 North, Range 11 West, Fairbanks Meridian

29

Sections 1 - 4

1 Sections 8 - 17
 2 Sections 20 - 29
 3 (7) Township 2 North, Range 6 West, Fairbanks Meridian
 4 Sections 1 - 36
 5 (8) Township 2 North, Range 7 West, Fairbanks Meridian
 6 Sections 1 - 36
 7 (9) Township 2 North, Range 8 West, Fairbanks Meridian
 8 Sections 1 - 36
 9 (10) Township 2 North, Range 9 West, Fairbanks Meridian
 10 Sections 1 - 36
 11 (11) Township 2 North, Range 10 West, Fairbanks Meridian
 12 Section 3
 13 Sections 8 - 10
 14 Section 11: S1/2N1/2, S1/2
 15 Section 12: S1/2N1/2, S1/2
 16 Sections 13 - 36
 17 (12) Township 2 North, Range 11 West, Fairbanks Meridian
 18 Sections 13 - 15
 19 Sections 22 - 27
 20 Sections 34 - 36
 21 (13) Township 3 North, Range 6 West, Fairbanks Meridian
 22 Sections 13 - 36
 23 (14) Township 3 North, Range 7 West, Fairbanks Meridian
 24 Sections 6 - 8
 25 Section 9: S1/2S1/2
 26 Sections 13 - 36
 27 (15) Township 3 North, Range 8 West, Fairbanks Meridian
 28 Section 1
 29 Sections 5 - 10

1	Sections 14 - 23
2	Sections 25 - 36
3	(16) Township 3 North, Range 9 West, Fairbanks Meridian
4	Section 24: S1/2
5	Section 25
6	Sections 33 - 36
7	(17) Township 3 North, Range 10 West, Fairbanks Meridian
8	Sections 34 - 35
9	(18) Township 4 North, Range 6 West, Fairbanks Meridian
10	Sections 2 - 9
11	Sections 16 - 21
12	(19) Township 4 North, Range 7 West, Fairbanks Meridian
13	Sections 1 - 4
14	Section 5: S1/2
15	Section 6: S1/2
16	Sections 7 - 24
17	Sections 30 - 31
18	(20) Township 4 North, Range 8 West, Fairbanks Meridian
19	Sections 10 - 15
20	Sections 22 - 27
21	Sections 30 - 31
22	Sections 35 - 36
23	(21) Township 5 North, Range 5 West, Fairbanks Meridian
24	Section 6: W1/2
25	Section 7: W1/2
26	Section 18: W1/2
27	(22) Township 5 North, Range 6 West, Fairbanks Meridian
28	Sections 1 - 3
29	Section 4: SE1/4

1 Section 9: E1/2
2 Sections 10 - 15
3 Section 16: E1/2, SW1/4
4 Section 20: S1/2
5 Sections 21 - 29
6 Sections 31 - 36
7 (23) Township 5 North, Range 7 West, Fairbanks Meridian
8 Section 35: SE1/4
9 Section 36: S1/2
10 (24) Township 1 South, Range 6 West, Fairbanks Meridian
11 Sections 5 - 8
12 Sections 17 - 20
13 Sections 29 - 31
14 (25) Township 1 South, Range 7 West, Fairbanks Meridian
15 Sections 1 - 36
16 (26) Township 1 South, Range 8 West, Fairbanks Meridian
17 Sections 1 - 2
18 Sections 11 - 14
19 Sections 23 - 26
20 Sections 35 - 36
21 (27) Township 1 South, Range 9 West, Fairbanks Meridian
22 Sections 1 - 36
23 (28) Township 1 South, Range 10 West, Fairbanks Meridian
24 Sections 7 - 36
25 (29) Township 1 South, Range 11 West, Fairbanks Meridian
26 Sections 25 - 26
27 Sections 35 - 36
28 (30) Township 2 South, Range 6 West, Fairbanks Meridian
29 Section 6: S1/2NW1/4, S1/2

1 Section 7: all North and West of the Alaska Railroad
2 right-of-way

3 Section 18: all North and West of the Alaska Railroad
4 right-of-way

5 Section 19: all North and West of the Alaska Railroad
6 right-of-way

7 (31) Township 2 South, Range 7 West, Fairbanks Meridian
8 Sections 1 - 12

9 Section 13: NE1/4, E1/2NW1/4, NE1/4SW1/4, S1/2SW1/4,
10 SE1/4

11 Section 14: W1/2

12 Sections 15 - 22

13 Section 23: W1/2

14 Section 24: all North and West of the Alaska Railroad
15 right-of-way

16 Section 27: NW1/4

17 Sections 28 - 32

18 Section 33: NE1/4NE1/4, W1/2NE1/4, W1/2, W1/2SE1/4

19 (32) Township 2 South, Range 8 West, Fairbanks Meridian
20 Section 1
21 Sections 12 - 13
22 Sections 24 - 25
23 Section 36

24 (33) Township 2 South, Range 9 West, Fairbanks Meridian
25 Sections 1 - 12

26 Section 17: W1/2NW1/4, NW1/4SW1/4
27 Section 18

28 Section 19: N1/2, N1/2S1/2

29 (34) Township 2 South, Range 10 West, Fairbanks Meridian

Changed from
S1/2SW1/2

Changed from 1/4NW1/1

1 Sections 1 - 20

2 Section 21: NE1/4, W1/2

3 Section 22: NW1/4

4 Section 24: N1/2, N1/2S1/2

5 Sections 29 - 31

6 (35) Township 2 South, Range 11 West, Fairbanks Meridian

7 Sections 1 - 5

8 Sections 7 - 36

9 (36) Township 2 South, Range 12 West, Fairbanks Meridian

10 Sections 25 - 26

11 Sections 35 - 36

12 (37) Township 3 South, Range 7 West, Fairbanks Meridian

13 Section 5: N1/2NE1/4, W1/2

14 Sections 6 - 7

15 Section 18: NE1/4, W1/2, N1/2SE1/4, SW1/4SE1/4

16 (38) Township 3 South, Range 8 West, Fairbanks Meridian

17 Section 1

18 Section 12

19 Section 13

20 Section 22: NE1/4 (that portion above the ordinary

21 high water mark right bank Tanana River)

22 Section 23: N1/2, SE1/4

23 Section 24: N1/2, SW1/4

24 Section 25: NW1/4

25 (39) Township 3 South, Range 11 West, Fairbanks Meridian

26 Sections 2 - 10

27 Section 11: N1/2

28 Section 14: SW1/4NE1/4, S1/2NW1/4, SW1/4, W1/2SE1/4

29 Sections 15 - 21

- 1 Section 22: NE1/4, W1/2, W1/2SE1/4
- 2 Section 23: NW1/4
- 3 Section 27: W1/2NE1/4, NW1/4, W1/2SW1/4
- 4 Sections 28 - 31
- 5 Section 32: NE1/4, NW1/4, SE1/4
- 6 Section 33: W1/2
- 7 (40) Township 3 South, Range 12 West, Fairbanks Meridian
- 8 Sections 1 - 2
- 9 Sections 11 - 14
- 10 Sections 23 - 26
- 11 Sections 35 - 36

12 (b) The Minto Flats State Game Refuge is established to guaran-

13 tee changed from "ensure"

- 14 (1) the protection and enhancement of habitat;
- 15 (2) the conservation of fish and wildlife; and
- 16 (3) the continuation of hunting, fishing, trapping and

17 other uses compatible with the protection of habitat and the conserva-
 18 tion of fish and wildlife.

19 (c) The state may not acquire by eminent domain privately owned
 20 land within the Minto Flats State Game Refuge, but may acquire pri-
 21 vately owned land by purchase, exchange, or otherwise for inclusion in
 22 the Minto Flats State Game Refuge.

23 (d) Public access to the Minto Flats State Game Refuge by means
 24 of horse, boat, aircraft, dog team, snowmachine, or other means con-
 25 sistent with (b) of this section may not be prohibited.

26 Added (e) Reasonable ingress to and egress from private property
 27 within the Minto Flats State Game Refuge shall be guaranteed Added through
 28 access corridors established through agreement between the Department
 29 of Natural Resources, the Department of Fish and Game, and the private

1 property owners involved.

2 (f) The Department of Fish and Game [and the Department of
3 Natural Resources shall exercise their respective authorities over the
4 Minto Flats State Game Refuge consistent with a management plan pre-
5 pared by the Department of Fish and Game in consultation with the
6 Department of Natural Resources.]

Added

7 (g) In the Minto Flats State Game Refuge management plan the
8 commissioner of fish and game shall recognize the existence of his-
9 toric trails and shall provide access across the refuge to the extent
10 consistent with (b) of this section.

11 (h) Land and water within the Minto Flats State Game Refuge that
12 is closed to mineral entry by the commissioner of natural resources
13 under the Tanana Basin management plan is closed to mineral entry
14 under AS 38.05.185 - 38.05.275. In the Minto Flats State Game Refuge
15 management plan, the commissioner of fish and game shall recommend to
16 the commissioner of natural resources which other portions of the
17 refuge, if any, should be closed to mineral entry under AS 38.05.185 -
18 38.05.275.

19 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

Anch.

Debbie Clauson 267-2330

Ellen Fritz 4105

used to know

how many legislatively designated wildlife refuges or critical habitat areas there are

and 9 ^{state} game ^{refuges}

how many acres in each

wildlife refuges -

critical habitat areas -

- 2 state game Sanct
- 11 state critical habitats areas

Taura Area Basin Plan

Kerry Howard - Habitat
F & G

Capital Office Park

Down
behind Dept. of Labour



ALASKA MINERS ASSOCIATION, INC.

AIRBANKS BRANCH

January 10, 1987

Senator Jack Coghill
30 Capitol Building
Pouch V, Juneau 99811

OFFICE COPY

Subject: Minto Flats Refuge

Dear Senator Coghill,

Many miners have very serious concerns with some of the elements of the proposed Minto Flats Game Refuge, and we feel that the start of the legislative session is an opportune time to acquaint you with these concerns. We are not opposed to the proposal in concept, but have serious problems with some of the particulars. The most disturbing is the blanket closure of the area to mineral entry. It was explained to the miners that the Fish and Game Habitat Division is worried that unscrupulous persons will falsely file mining claims in order to have a cabin in the proposed refuge to hunt from, and that it would be inconvenient to adjudicate the validity of such claims. We feel that a blanket mineral closure of a completely unexplored area for the sake of administrative convenience is a dangerous concept. Fish and Game Habitat Division may well be cutting the throat of Alaska's economic future with this kind of thinking. We feel very strongly that this concept is unjustifiable because there are procedures to challenge the validity of improper claims and a mineral closure will be of no benefit to the stated purposes of the proposed refuge. There is no present conflict in use, and decisions on mineral closures should be made based on proper mineral assessment .

We also are very concerned that the proposed refuge extensions will block access to important sections of the Tanana Valley State Forest, specifically Sections 1A, 1B, 1C, 2A, 2B, 2C, and 3B. Section 2 of the forest contains much of the sustained yield timber that is scheduled to be harvested. With the present economy we feel that the Habitat Division is unjustified to pre-empt employment opportunities. Further, the proposed refuge would block the traditional use of the Dunbar Trail, the Manley Hot Springs-Fairbanks Trail, and the Commissioner's Trail. There also has been no discussion of access that takes place over waters that are navigable. We are concerned that the priorities as enumerated in the proposal will effectively



block access. To quote the proposal at (b), "...Refuge is established to ensure the protection and enhancement of habitat and the conservation of fish and wildlife species dependent thereon; and to guarantee its continued use and enjoyment by the public for hunting, fishing, trapping and other uses compatible with the protection of habitat and the conservation of the fish and wildlife species. (c) Public access including, but not limited to, the use of horses, boats, aircraft, dog teams and snowmachines is guaranteed provided that such use is consistent with (b) of this section." End quote. We are extremely suspicious of this wording, we feel there is deception here. Who will make this consistency determination and on what basis? What kind of mechanized vehicle is compatible with the protection of habitat? What does "enhancement of habitat" mean, anyway? How does hunting and fishing conserve fish and wildlife? Why is mining implied to be an incompatible use? These are serious questions that are in the minds of many miners.

We feel that the Minto Flats Game Refuge proposal, as it is presently written, is a lock-up for the benefit of a few and not in the best interest of the State of Alaska

Sincerely,

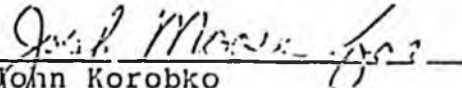
Del Ackels
 Del Ackels
 Chairman, Alaska Miners Association

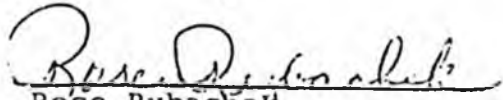
cc: Senate Resources
 House Resources

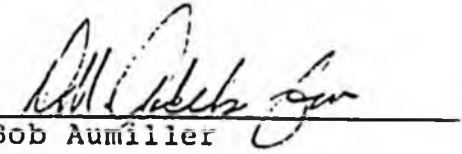
Subject: AMA response to Minto Flats Game Refuge.

It is also the objective of these groups that this letter of intent be incorporated as part of the Legislative record during the establishment of the Minto Flats State Game Refuge.

Sincerely,


John Korobko
President
Placer Miners of Alaska
P.O. Box 73756
Fairbanks, Alaska 99701


Rose Rybachej
President
Livengood-Tolovana Mining District
P.O. Box 73069
Fairbanks, Alaska 99707


Bob Aumiller
President
Miners Advocacy Council
P.O. Box 83909
Fairbanks, Alaska 99708



Greater Fairbanks

Chamber

of Commerce

First National Center

P.O. Box 74446

100 Cushman Street

(907) 452-1105

Fairbanks, Alaska 99707

RESOLUTION 3-0487

MINTO FLATS STATE GAME REFUGE

- WHEREAS, SB-55 has been introduced in the Legislature to create a Minto Flats State Game Refuge in the Minto Flats area; and
- WHEREAS, the proposed refuge is intended to protect and enhance habitat, conserve fish and wildlife, and allow the continuation of hunting, fishing, trapping, and other compatible uses; and
- WHEREAS, the Department of Natural Resources Tanana Basin Area Plan, already in effect, is capable of offering similar resource protection; and
- WHEREAS, State land in the Minto Flats area should continue to be managed under the provisions of the Tanana Basin Area Plan; and
- WHEREAS, much of the proposed refuge is already designated as the Minto Game Management Area for the purposes of game management; and
- WHEREAS, the Minto Flats area should continue to be designated as the Minto Game Management Area for the purposes of managing game resources; and
- WHEREAS, there is no identifiable impending threat to the habitat or resources of Minto Flats which makes its designation as a game refuge desirable or necessary; and
- WHEREAS, Minto Flats is an important recreation area for the surrounding communities; and
- WHEREAS, land designations such as "game refuge" have historically facilitated stringent restrictions, management plans and court decisions which decrease the ability of the public to access the land and utilize its resources in even a traditional manner; and
- WHEREAS, such stringent restrictions increase over time to the point that the original purpose for the designation is negated; and
- WHEREAS, the proposed refuge includes portions of existing trails which are protected by RS 2477 rights-of-way, and which are important as access to and through the area, and

WHEREAS, the proposed refuge would overlie portions of identified corridors for possible future transportation system extensions west from Nenana, and north and west from Dunbar, to westerr. Alaska, and/or to mineral deposits in the Kobuk River area; and

WHEREAS, the proposed refuge overlies one of the alignment alternatives for the proposed TransAlaska Gas System Pipeline; and

WHEREAS, the refuge proposal includes a mineral closure for which there is no need;

NOW, THEREFORE, be it resolved that State land in the Minto Flats area should NOT be designated as a State Game Refuge.

DATED THIS Fourteenth DAY OF April, 1987
BY James P. Dodson BY Althea St. Martin
James Dodson, Chairman of the Board Althea St. Martin, Acting President

MEMORANDUM

To: Jack Cogh:⁺
From: Mike Dalton *Mike Dalton*
Subj: Proposing "Minto Game Refuge"
Date: Monday, Oct. 14, 1985

As a result of the State's involvement with the Tanana Basin Plan, the habitat division of the Fish and Game Dept. has taken the signal from the various planners (and division people) and put on maps a proposed game refuge that will include all or most of the Minto Flats.

The region falls in Sackett's and your districts.

Minto village has already selected some lands around their village (new village of Minto) that includes many of the Minto Lakes.

I got a briefing from Scott Grundy of Habitat Division of Fish and Game this morning. I enclose a prepared outline he gave me which he used when he made the same presentation to the Tanana Valley Sportsmens' Association (TVSA) last Tuesday evening.

We were the first office (personnel) he contacted. He is going to talk to Bennett or a staff person...Fahrenkamp, too. Also, he will be contacting House members to let them know that a proposal is being put together.

Ideally, they would want the Governor to introduce a bill, but I think they see the roadblocks that would pop up if he did such a thing. Another approach is to have two or more Legislators introduce the measure.

I suggested that with the subsistence issue coming before the Legislature in 1986, this Minto Refuge may get caught up in that argument and not get a fair hearing.

I told Grundy that you would be willing to look at this proposal since part of it is in your district, but I added that you would not be too interested in co-sponsoring such a bill unless the TVSA and the Outdoor Council had had a chance to study the refuge proposal and to give it their approval.

I also suggested that Dick Shultz be briefed on the issue since he is co-chair of House Resources where such a measure would be assigned (as the principal committee) for study.

I'll start a file on this.

9301.0.13

ALASKA LAND ACREAGE SUMMARY
December 31, 1985

	<u>Millions of Acres</u>	<u>% of Total</u>
<u>Total Land Alaska</u> -----	367.7	100.0%
<u>State Land Entitlement</u> ¹ -----	104.8*	28.5%
Selected Land ² (includes over-selection) —	27.8	
Tentatively Approved -----	54.1	
Patented -----	27.7	
<u>Private Land Owned by Individuals</u> ³ -----	5.0*	1.4%
<u>Native Corporation Land Entitlement</u> ⁴ -----	43.7*	11.9%
Selected Land (includes over-selection) ⁵ —	45.6	
Interim Conveyed or Patented ⁶ -----	34.6	
<u>Total Federal Land</u> -----	217.7*	59.2%
<u>National Park System</u> ⁷ -----	51.0**	(13.9%)
(Parks Acreage Also Within the National Wilderness Preservation System: 32.4)		
Parks/Monuments Established Prior to 1980- 7.5		
Parks/Monuments Established in Alaska Lands Act ¹¹ -----	24.6	
Preserves Established in Alaska Lands Act ¹¹ -----	18.9	
<u>U.S. Fish and Wildlife System</u> ⁸ -----	76.0**	(20.6%)
(Refuge Acreage also within the National Wilderness Preservation System: 18.6)		
Refuges Established Prior to Alaska Lands Act -----	22.3	
Refuges Established in Alaska Lands Act ¹¹ -	53.7	
<u>U.S. Forest System</u> ⁹ -----	23.2**	(6.3%)
(Forest Acreage also within the National Wilderness Preservation System: 5.4)		
Forests Established Prior to Alaska Lands Act -----	19.8	
Forests Established in Alaska Lands Act ¹¹	3.4	
<u>Bureau of Land Management</u> -----	65.0**	(17.7%)
National Petroleum Reserve-Alaska -----	22.4	
Areas Established in Alaska Lands Act ¹¹		
Conservation and Recreation Areas -----	2.2	
Nat'l Wild & Scenic Rivers System -----	1.5	
Other Alaska Lands -----	38.9	
<u>Military Lands</u> ¹⁰ -----	2.5**	(0.7%)

Note: Because of unresolved overlaps between state and Native selections and various federal designations, and because state entitlement lands may be disposed of to private owners, the sum of subtotals exceeds the statewide total.

*Figures add to statewide total.

**Figures add to federal total.

RECEIVED

MAR 17 1987

①

- SOURCES:
1. Alaska Statehood Act P.L. 85-508 (January 3, 1959)

General Grant Sec. 6(b)-----	2,550,000
Community Grant Sec. 6(a)-----	400,000
Community-National Forest Sec. 6(a)	400,000
Territorial Grants-----	1,200,000+
School Land Settlement P.L. 96-487	75,000
 2. Monthly Land Activity Report. Selected land figure includes unresolved overlaps with certain Native land selections.
 3. Represents state, federal, and municipal land disposals including an estimated 700,000 acres to be conveyed to individual Alaskan Natives under the Native Allotment Act of 1906.
 4. Alaska Native Claims Settlement Act P.L. 92-203 (December 18, 1970).
 5. Resource Assessment System, Department of Natural Resources.
 6. Bureau of Land Management, Division of ANCSA Operations.
 7. National Park Service, Department of Interior.
 8. U.S. Fish and Wildlife Service, Department of Interior.
 9. U.S. Department of Agriculture, Forest Service: Chugach Forest, 4.6 million; Tongass Forest, 15.2 million.
 10. Public Land Statistics, Bureau of Land Management, 1977.
 11. Alaska National Interest Lands Conservation Act P.L. 96-487 (December 2, 1980.)

Prepared By

Alaska Department of Natural Resources
Division of Land and Water Management

2

Original sponsors: Binkley and Kerttula

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 55 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Minto Flats State Game
7 Refuge; and providing for an effective date."

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. 16.20.037. MINTO FLATS STATE GAME REFUGE. (a) The follow-
11 ing state-owned land and water is established as the Minto Flats State
12 Game Refuge:

13 (1) Township 1 North, Range 6 West, Fairbanks Meridian

14 Sections 2 - 11

15 Sections 14 - 23

16 Sections 26 - 34

17 (2) Township 1 North, Range 7 West, Fairbanks Meridian

18 Sections 1 - 36

19 (3) Township 1 North, Range 8 West, Fairbanks Meridian

20 Sections 1 - 16

21 Sections 21 - 28

22 Section 35: E1/2

23 Section 36

24 (4) Township 1 North, Range 9 West, Fairbanks Meridian

25 Sections 1 - 12

26 (5) Township 1 North, Range 10 West, Fairbanks Meridian

27 Sections 1 - 12

28 (6) Township 1 North, Range 11 West, Fairbanks Meridian

29 Sections 1 - 4

1 Sections 8 - 17
 2 Sections 20 - 29
 3 (7) Township 2 North, Range 6 West, Fairbanks Meridian
 4 Sections 1 - 36
 5 (8) Township 2 North, Range 7 West, Fairbanks Meridian
 6 Sections 1 - 36
 7 (9) Township 2 North, Range 8 West, Fairbanks Meridian
 8 Sections 1 - 36
 9 (10) Township 2 North, Range 9 West, Fairbanks Meridian
 10 Sections 1 - 36
 11 (11) Township 2 North, Range 10 West, Fairbanks Meridian
 12 Section 3
 13 Sections 8 - 10
 14 Section 11: S1/2N1/2, S1/2
 15 Section 12: S1/2N1/2, S1/2
 16 Sections 13 - 36
 17 (12) Township 2 North, Range 11 West, Fairbanks Meridian
 18 Sections 13 - 15
 19 Sections 22 - 27
 20 Sections 34 - 36
 21 (13) Township 3 North, Range 6 West, Fairbanks Meridian
 22 Sections 13 - 36
 23 (14) Township 3 North, Range 7 West, Fairbanks Meridian
 24 Sections 6 - 8
 25 Section 9: S1/2S1/2
 26 Sections 13 - 36
 27 (15) Township 3 North, Range 8 West, Fairbanks Meridian
 28 Section 1
 29 Sections 5 - 10

1 Sections 14 - 23
 2 Sections 25 - 36
 3 (16) Township 3 North, Range 9 West, Fairbanks Meridian
 4 Section 24: S1/2
 5 Section 25
 6 Sections 33 - 36
 7 (17) Township 3 North, Range 10 West, Fairbanks Meridian
 8 Sections 34 - 35
 9 (18) Township 4 North, Range 6 West, Fairbanks Meridian
 10 Sections 2 - 9
 11 Sections 16 - 21
 12 (19) Township 4 North, Range 7 West, Fairbanks Meridian
 13 Sections 1 - 4
 14 Section 5: S1/2
 15 Section 6: S1/2
 16 Sections 7 - 24
 17 Sections 30 - 31
 18 (20) Township 4 North, Range 8 West, Fairbanks Meridian
 19 Sections 10 - 15
 20 Sections 22 - 27
 21 Sections 30 - 31
 22 Sections 35 - 36
 23 (21) Township 5 North, Range 5 West, Fairbanks Meridian
 24 Section 6: W1/2
 25 Section 7: W1/2
 26 Section 18: W1/2
 27 (22) Township 5 North, Range 6 West, Fairbanks Meridian
 28 Sections 1 - 3
 29 Section 4: SE1/4

1 Section 9: E1/2
2 Sections 10 - 15
3 Section 16: E1/2, SW1/4
4 Section 20: S1/2
5 Sections 21 - 29
6 Sections 31 - 36
7 (23) Township 5 North, Range 7 West, Fairbanks Meridian
8 Section 35: SE1/4
9 Section 36: S1/2
10 (24) Township 1 South, Range 6 West, Fairbanks Meridian
11 Sections 5 - 8
12 Sections 17 - 20
13 Sections 29 - 31
14 (25) Township 1 South, Range 7 West, Fairbanks Meridian
15 Sections 1 - 36
16 (26) Township 1 South, Range 8 West, Fairbanks Meridian
17 Sections 1 - 2
18 Sections 11 - 14
19 Sections 23 - 26
20 Sections 35 - 36
21 (27) Township 1 South, Range 9 West, Fairbanks Meridian
22 Sections 1 - 36
23 (28) Township 1 South, Range 10 West, Fairbanks Meridian
24 Sections 7 - 36
25 (29) Township 1 South, Range 11 West, Fairbanks Meridian
26 Sections 25 - 26
27 Sections 35 - 36
28 (30) Township 2 South, Range 6 West, Fairbanks Meridian
29 Section 6: S1/2NW1/4, S1/2

1 Section 7: all North and West of the Alaska Railroad
2 right-of-way

3 Section 18: all North and West of the Alaska Railroad
4 right-of-way

5 Section 19: all North and West of the Alaska Railroad
6 right-of-way

7 (31) Township 2 South, Range 7 West, Fairbanks Meridian
8 Sections 1 - 12

9 Section 13: NE1/4, E1/2NW1/4, NE1/4SW1/4, S1/2SW1/4,
10 SE1/4

11 Section 14: W1/2

12 Sections 15 - 22

13 Section 23: W1/2

14 Section 24: all North and West of the Alaska Railroad
15 right-of-way

16 Section 27: NW1/4

17 Sections 28 - 32

18 Section 33: NE1/4NE1/4, W1/2NE1/4, W1/2, W1/2SE1/4

19 (32) Township 2 South, Range 8 West, Fairbanks Meridian
20 Section 1

21 Sections 12 - 13

22 Sections 24 - 25

23 Section 36

24 (33) Township 2 South, Range 9 West, Fairbanks Meridian
25 Sections 1 - 12

26 Section 17: W1/2NW1/4, NW1/4SW1/4

27 Section 18

28 Section 19: N1/2, N1/2S1/2

29 (34) Township 2 South, Range 10 West, Fairbanks Meridian

1 Sections 1 - 20
2 Section 21: NE1/4, W1/2
3 Section 22: NW1/4
4 Section 24: N1/2, N1/2S1/2
5 Sections 29 - 31
6 (35) Township 2 South, Range 11 West, Fairbanks Meridian
7 Sections 1 - 5
8 Sections 7 - 36
9 (36) Township 2 South, Range 12 West, Fairbanks Meridian
10 Sections 25 - 26
11 Sections 35 - 36
12 (37) Township 3 South, Range 7 West, Fairbanks Meridian
13 Section 5: N1/2NE1/4, W1/2
14 Sections 6 - 7
15 Section 18: NE1/4, W1/2, N1/2SE1/4, SW1/4SE1/4
16 (38) Township 3 South, Range 8 West, Fairbanks Meridian
17 Section 1
18 Section 12
19 Section 13
20 Section 22: NE1/4 (that portion above the ordinary
21 high water mark right bank Tanana River)
22 Section 23: N1/2, SE1/4
23 Section 24: N1/2, SW1/4
24 Section 25: NW1/4
25 (39) Township 3 South, Range 11 West, Fairbanks Meridian
26 Sections 2 - 10
27 Section 11: N1/2
28 Section 14: SW1/4NE1/4, S1/2NW1/4, SW1/4, W1/2SE1/4
29 Sections 15 - 21

1 Section 22: NE1/4, W1/2, W1/2SE1/4
2 Section 23: NW1/4
3 Section 27: W1/2NE1/4, NW1/4, W1/2SW1/4
4 Sections 28 - 31
5 Section 32: NE1/4, NW1/4, SE1/4
6 Section 33: W1/2
7 (40) Township 3 South, Range 12 West, Fairbanks Meridian
8 Sections 1 - 2
9 Sections 11 - 14
10 Sections 23 - 26
11 Sections 35 - 36
12 (b) The Minto Flats State Game Refuge is established to
13 (1) ensure the protection and enhancement of habitat;
14 (2) ensure the conservation of fish and wildlife; and
15 (3) guarantee the continuation of hunting, fishing, trap-
16 ping and other uses by the public compatible with the protection and
17 enhancement of habitat and the conservation of fish and wildlife.
18 (c) The state may not acquire by eminent domain privately owned
19 land within the Minto Flats State Game Refuge, but may acquire pri-
20 vately owned land by purchase, exchange, or otherwise for inclusion in
21 the Minto Flats State Game Refuge.
22 (d) Management decisions under this section made by the commis-
23 sioner of natural resources and the commissioner of fish and game are
24 applicable only to land and water described in (a) of this section.
25 (e) ~~Public~~ access to the Minto Flats State Game Refuge by means
26 of horse, boat, aircraft, dog team, snowmachine, or other means con-
27 sistent with (b) of this section may not be prohibited.
28 (f) Access to and from private property within the Minto Flats
29 State Game Refuge shall be guaranteed through access corridors

1 established through agreement between the Department of Natural
2 Resources, the Department of Fish and Game, and the private property
3 owners involved.

4 (g) The Department of Fish and Game and the Department of
5 Natural Resources shall exercise their respective authorities over the
6 Minto Flats State Game Refuge consistent with a management plan pre-
7 pared by the Department of Fish and Game in consultation with the
8 Department of Natural Resources.

9 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

Deleted statutory mineral closure

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSSB 55 (Res)
PUBLISH DATE: 4/14/87

FISCAL NOTE

REQUEST:

Revision Date: Senate Res
Title: Ninto Flats Refuge
Sponsor: Binkley/Kertulla
Requestor: Senate Res. Comm.

Agency Affected: DIR
BRU: Div. Land and Water Mgt.
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Janet Burleson
Division: Land and Water Management

Phone: 465-3400
Date: 2/1/88

Approved by Commissioner: Judith W.B. 67
Agency: Natural Resources

Date: 2-2-88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Alaska State Legislature

Senate Resources Committee



Sen. John B. (Jack) Coghill, Chairman
Sen. Paul Fischer, Vice-Chairman
Sen. Lloyd Jones
Sen. Arliss Sturqulewski
Sen. Jim Duncan
Sen. Fred Zharoff
Sen. Dick Eliason

Box V
Juneau, Alaska 99811
(907) 465-4907

MEMORANDUM

TO: Senate Resource Committee Members

FROM: Resource Committee Staff

RE: CS SB 55; An act establishing the Minto Flats State Game Refuge;
and providing for an effective date.

DATE: March 31, 1987

List of packet contents:

- 1) Sponsor Memorandum, March 13, 1987
- 2) Fish and Game position paper and fiscal note
- 3) DNR position paper, February 10, 1987
- 4) Draft intent paper by Scott Grundy, State Habitat Biologist
October 10, 1985
- 5) Packet from Senate C&RA committee, February 10, 1987
Includes: a) Sponsor memo 2/10/87
b) Map of proposed refuge
c) F&G bill analysis 1/23/87
d) F&G fiscal note 2/4/87
e) FBKS. Daily News Miner article 1/22/87
f) Minto Village Council letter 12/3/86
g) Alaska Miners Assn. letter 1/10/87
- 6) Three (3) Fairbanks Daily News Miner articles
Jan. 22, 29 and Feb. 11, 1987
- 7) Letter from a coalition of organizations May 27, 1986
- 8) Letter from a Dennis Higgins February 13, 1987
- 9) Public Opinion Messages Received
- 10) Alaska Lands Acreage Summary

There is one fact the committee should be aware of while considering this bill. Of the 367.7 million acres of total land area in the state of Alaska 20.6% or 76.0 million acres are in the federal refuge system, managed by the U.S. Fish and Wildlife Service.

There are 9 state game refuges, 12 critical habitat areas, and 2 game sanctuaries. Total land area involved is estimated at 1,968,500 acres.

There is virtually no categorical opposition from the interior region. Dissenting views recognize specific concerns which apply generally to this type of legislation.

With this in mind staff recommends that the policy implications be explored to the fullest.

The three general topics which are of concern are:

1. Access
2. Statutory Mineral Closure
3. Refuge Boundaries

Access encompasses several issues. One is access to and from, in the sense of transportation, another is access to use, in the sense of other resources identified in the Tanana Basin Area Plan.

For example, the proposed refuge includes lands that have been classified as forestry in the plan. Does section (b) preclude timber harvests, and if it does, is this desirable? Does the reference to section (b) in section (d), preclude access through the proposed refuge for the purpose of mineral prospecting in areas outside the refuge?

The proposed legislation acknowledges rights of ways in section (e) and historic access section (g), "to the extent consistent with (b) of this section." But it does not reserve any right of ways for public or private use, nor does it guarantee historical access for purposes other than those in section (b).

Statutory mineral closure indicates strong legislative intent for the management of the affected lands. In this proposed legislation the management implications, for lands adjacent to the refuge, particularly upstream lands, or lands surrounded by the refuge, could be quite severe depending on interpretation and implementation of the management plan. One thing is clear however. Lands which have received very little investigation as a possible source of minerals, but are none the less rated in the planning process to have a low potential for future production of minerals, suddenly have no potential to produce minerals under a statutory closure.

Refuge boundaries must be logical. Boundaries which have no relation to surface features or which are extremely irregular, not only make refuge management difficult, but can increase the cost of surveying.

Senator Johne Binkley

Alaska State Senate
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985



Finance Committee
Co-Chairman

M E M O R A N D U M

March 13, 1987

TO: SENATOR JACK COGHILL, CHAIRMAN
Senate Resources Committee

FROM: SENATOR JOHNE BINKLEY *Johne Binkley*

Subj: CS for Senate Bill 55, "An Act relating to
establishing the Minto Flats State Game Refuge."

Minto Flats is located in interior Alaska, 35 air miles west of Fairbanks adjacent to the village of Minto and five miles north of Nenana. The Minto Flats area is primarily low-lying wetlands fed by the Tolovana, Chatanika, and Tatalina Rivers and Goldstream and Washington Creeks. The flats are drained by the Tanana River. The proposed refuge encompasses approximately 792 square miles (507,136 acres).

Minto Flats supports vast concentrations of waterfowl and fur-bearing animals, as well as productive fisheries and a variety of game. The U.S. Fish and Wildlife Service has reported that the Minto Flats area is one of the highest quality waterfowl nesting habitats on the North American continent. The Service estimates that Minto Flats produces 150,000 ducks annually, supporting breeding populations averaging 213 ducks per square mile.

The Minto Flats area is used year-round by residents of Minto and Nenana as primary subsistence hunting, fishing and trapping grounds. In addition, sportsmen from Fairbanks and other areas hunt, fish and trap extensively in the Minto Flats area.

Minto Flats is the third most popular duck hunting area in the state, logging over 5,000 hunter days with over 11,000 ducks and 700 geese taken annually. Minto Flats is also one of the most productive sports fisheries in the state; each year over 800 anglers spend 1,800 days fishing in the Minto Flats area harvesting over 2,300 fish. In addition, over 100 beavers are taken each year on Minto Flats. Land otter, lynx, wolverine, wolf, red fox, mink and muskrat are also regularly trapped on the flats.

The proposed legislation to establish the Minto Flats State Game Refuge has the endorsement of a wide range of user and interest groups throughout the region. Support for the bill comes from the Alaska Outdoor Council, Arctic Audubon, Cleary Sky Sportsmen Club, Fairbanks Fish and Game Advisory Committee, Healy/Clear Fish and Game Advisory Committee, Minto Native Council, Nenana Native Council, Northern Alaska Environmental Center, Seth-de-ya-ah Corporation (Fairbanks), Tanana Chiefs Conference, and the Tanana Valley Sportsman Association.

The bill to establish the Minto Flats State Game Refuge is in response to the findings of the Tanana Basin Area Plan. The purpose of establishing the Minto Flats Refuge is to guarantee:

1. the protection and enhancement of fish and game and their habitat in the area;
2. the conservation of fish and wildlife; and
3. the perpetuation of hunting, fishing, trapping, and other uses compatible with the protection of habitat and the conservation of fish and wildlife.

The committee substitute for Senate Bill 55:

1. establishes Minto Flats State Game Refuge;
2. identifies the purpose for which the area is established;
3. provides for the management of Minto Flats State Game Refuge including development of a management plan;
4. ensures continued public access;
5. provides for acquisition of private property from willing owners;
6. guarantees continued reasonable access to private inholdings;
7. recognizes the existence of historic trails and provides for access across the refuge; and
8. closes a portion of the Minto Flats State Game Refuge to mineral access.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB55	SPONSOR Binkley
DEPARTMENT POSITION Support			
PREPARED BY Habitat Division	DATE 1/23/87	COMMISSIONER'S SIGNATURE <i>Charles H. Binkley</i>	DATE 2-5-87

SUMMARY

DEPT AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUPS AFFECTED BY BILL Hunting & Fishing Groups Nenana, Minto and Fairbanks area residents
ORGANIZATIONAL SUPPORT FOR BILL See attached Supplemental Sheet	ORGANIZATIONAL OPPOSITION TO BILL None Known

FISCAL IMPACT NONE FISCAL NOTE ATTACHED

BACKGROUND LEGISLATIVE INTENT

The purpose of establishing the Minto Flats State Game Refuge is to provide:

1. protection and enhancement for fish and wildlife habitat.
2. conservation of fish and wildlife.
3. continued opportunity for hunting, fishing and trapping.
4. other recreational opportunities

ANALYSIS OF BILL PROGRAM EFFECTS

1. Establishes Minto Flats State Game Refuge.
2. Identifies the purpose for which the area is established.
3. Provides for the management of Minto Flats State Game Refuge including development of a management plan.
4. Ensures continued public access.
5. Provides for acquisition of private property from willing owners.
6. Ensures continued access to private inholdings.
7. Closes the refuge to mineral entry.

AMENDMENTS PROPOSED

BILL ANALYSIS
(Supplemental Sheet)
Page 2 of 2

Organizational Support For Bill

AK Outdoor Council
Arctic Audubon
Clear Sky Sportsmen Club
Fbks. Fish & Game Advisory Comm.
Eealy/Clear Fish & Game Advisory Comm.
Minto Native Council
Menana Native Council
Northern AK Environmental Center
Seth-de-ya-ah Corp.
Tanana Valley Sportsmen Assoc.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version : S3 55
Publish Date : _____

REQUEST: _____

Revision Date: _____
Title: Minto Flats State Game
Refuge
Sponsor: Senator Binkley
Requestor: _____

Agency Affected: Fish and Game
BRU: Habitat
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		0				
TRAVEL		0				
CONTRACTUAL		0				
SUPPLIES		0				
EQUIPMENT		0				
LAND & STRUCTURES		0				
GRANTS, CLAIMS		0				
MISCELLANEOUS		0				
TOTAL OPERATING		0				

CAPITAL		0				
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REVENUE		0				
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FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS						
OTHER						
TOTAL		0				

POSITIONS:

FULL-TIME		0				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Roland Shanks
Division: Commissioner's Office

Phone: 465-4100
Date: 3/4/87

Approved by Commissioner: [Signature]
Agency: Fish and Game

Date: 2.5.87

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801
PHONE: (907) 465-2400

February 10, 1987

The Honorable Arliss Sturgulewski, Chair
Community and Regional Affairs Committee
Alaska State Senate
P.O. Box V
Juneau, AK 99801

Dear Senator Sturgulewski:

Subject: SB 55, which provides for the establishment of the
Minto Flats State Game Refuge.

Recommendation: The Department of Natural Resources generally supports
the bill. However, we find that additional work is
required on mineral closure, access, and boundary
issues. We would be pleased to meet with the sponsor,
committee staff, and other resource agencies to address
these matters.

Explanation: The Department recognizes the habitat values which
provide the basis for this legislative designation.
The adoption of the Tanana Basin area plan and the
Nenana-Tokchaket Management Plan generally classified
the lands in the Refuge proposal for habitat manage-
ment. However, only a portion of the lands proposed
for the refuge were closed to mineral entry. We cannot
support closing to mineral entry all of the land
encompassed in the refuge proposal.

We also have concerns about the effect of Refuge status
on a number of existing access routes. We could
support language which specified provisions for future
access development and protected existing routes and
uses.

Finally, we believe that the boundaries of the bill
have been carefully crafted to include lands valuable
for habitat and exclude lands with multiple resource