

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6013 HOUSE RESOURCES

4/7

Seasonal restrictions. In the Susitna Regional Forest planning area, forestry activities will be prohibited from March 15 through August 31 within 660 feet of known eagle nesting trees. If a nesting tree is not occupied by June 15, operations can occur between June 15 and August 31 between 330 feet and 660 feet from the nest tree. This guideline is specific to the SRFP. It reflects both concerns for the Susitna eagle populations and existing constraints on summer harvesting along the major rivers where nesting occurs. These constraints include lack of summer access across the river and poorly-drained soils.

Nesting and perching habitat. The state will provide and maintain nesting and perching habitat approximately every 2 miles along major rivers with cottonwood stands. Sites managed for this purpose would be approximately 40 acres each and would include cottonwood or white spruce trees of various sizes. A portion of the cottonwood trees should be suitable for eagle nesting. Harvesting can take place within these sites as long as the remaining stand meets these conditions. If harvesting does not leave sufficient cottonwoods to meet these requirements, another site will be identified to replace it.

USFWS authority. The US Fish and Wildlife Service (USFWS) has authority for managing bald eagle populations. To protect bald eagle populations in the planning area, USFWS will be notified of all planned sales. Notification will occur through interagency notification of the 5-year timber sale schedule and Forest Management Reports for individual sales. Where timber sales contain eagle nesting trees, DOF will design the sale in consultation with DFG and USFWS.

BEAR HABITAT

Brown bear habitat. Timber sales should be designed to avoid negative impacts on areas identified by DFG as important brown bear habitat. Important brown bear habitat includes activity centers, travel corridors, feeding sites, denning areas, mesic habitat types where soil disturbance is high, and slopes greater than 35% within brown bear ranges.

See also: "Access location and design - Bear habitat"

FLIGHTSEEING ROUTES

Timber sale design. Harvest areas along major flightseeing routes will be designed to reduce visual impacts of harvesting. Cutting units should be designed to reflect natural vegetation patterns, natural openings in the forest cover, and topography.

HERITAGE SITES

Known heritage sites. Known sites are identified in subunits in Chapter 4 of this plan. The Division of Parks and Outdoor Recreation Office of History and Archaeology (OHA) will review proposals for timber management activities through the interagency review processes for the 5-year timber sale schedule and Forest Management Reports for individual sales. If a known heritage site is in a proposed timber sale area, OHA will recommend guidelines for timber management activities to avoid adverse impacts to the site.

The Alaska Historic Preservation Act (AS 41.35) governs state management of heritage resources. This Act states that, "If [DNR] determines that historic, prehistoric, or archaeological sites, locations or remains will be adversely affected by the public construction or improvement, the proposed public construction or improvement may not be commenced until the department has performed the necessary investigation, recording and

salvage of the site, location or remains. All investigation, recording and salvage work shall be performed as expeditiously as possible so that no state construction project will be unduly impaired, impeded, or delayed."

Guidelines for protection of known heritage sites will vary. On prehistoric sites where all evidence of prehistoric activity is below ground, guidelines frequently require that timber management activities be conducted in the winter and with no ground disturbance. On historic sites with above-ground evidence of historic use, OHA generally will recommend a setback from the site.

MARTEN HABITAT

See also: "Timber sale design - Size and shape of cutting units"
"Slash disposal - Marten habitat"

MOOSE HABITAT

Moose winter range. In winter moose range areas identified by DFG where slopes are steep and cause extensive shade, timber harvest on south-facing slopes is preferred over harvest on north-facing slopes. North-facing slopes accumulate more snow and hold it longer. Moose save energy by feeding on south-facing slopes with more winter sunlight. Areas where this guideline should be applied will be identified in individual management units.

See also: "Harvesting systems - Felling and limbing"
"Harvesting schedules - Moose concentration areas"
"Harvesting schedules - Data collection"
"Slash disposal - rights-of-way"
"Access location and design - Moose forage areas"
"Access location and design - Straight stretches"
"Access location and design - Cuts and fills"
"Access management - Restrictions in sensitive moose areas"

PRIVATE LANDS

Liability. To prevent damage to private lands from trespass, blowdown, or other hazards created by timber harvest on state lands adjacent to private lands, DOF will use the following guidelines when designing timber sales.

1. Timber management activities near private land will be designed to avoid conflicts with adjacent landowners to the extent feasible and prudent.
2. Within 200' of private land, only single-tree selection harvesting is permitted unless:
 - a. other harvesting techniques such as clearcutting or seed tree harvesting are necessary to prevent or control outbreaks of insects, disease, wildfire, or hazards to public safety, or
 - b. the adjacent landowner requests use of other harvesting techniques adjacent to his or her property and DNR determines that alternative harvesting techniques are in the best interests of the state.

For any proposed cutting techniques other than single-tree selection, the Forest Management Report will describe the proposed action and the reasons for the proposal. DOF will design

any harvests within 200' of private land that do not meet the conditions in 2.a. or 2.b. above to leave windfirm buffers.

Timber sale plans in the five-year sale schedule or a Forest Management Report may include recommendations from DOF for harvesting techniques other than selective cutting within the 200-foot zone. However, to avoid liability problems, these techniques will not be used except when requested by the landowner and determined to be in the best interests of the state.

RIPARIAN AREAS

Fish habitat objectives. Under the Forest Practices Act, the DNR commissioner shall protect riparian areas from the significant adverse effects of timber harvest activities on fish habitat and water quality. The management intent for riparian areas is the adequate preservation of fish habitat by maintaining a short-and long-term source of large woody debris; stream bank stability; channel morphology; water temperatures; stream flows; water quality; adequate nutrient cycling; food sources; clean spawning gravels; and sunlight.

Wildlife habitat objectives. The management intent for wildlife habitat is to maintain or enhance existing riparian habitat by protecting and maintaining the following wildlife habitat components:

- a diverse mosaic of early through late successional vegetataion communities,
- sufficient structural diversity among the various overstory and understory layers to meet the habitat needs of terrestrial and avian wildlife species,
- adequate availability of cover habitat including security or hiding cover, thermal cover, and snow interception cover,
- sufficient forage biamass production for wildlife species dependent on browse,
- sufficient cover for daily movements and seasonal migrations,
- adequate water quality, streambank stability, and regular stream flow rates for aquatic furbearers, and
- access to mineral licks.

0-30 m zone. Harvests of timber may not be undertaken within 30 meters (100 feet) immediately adjacent to an anadromous or high value resident fish waterbody, and between 30 and 90 meters (100 and 300 feet) from the waterbody any timber harvest authorized by the commissioner of DNR in consultation with the Department of Fish and Game will be consistent with the maintenance of important fish and wildlife habitat.

30-90 m zone. Between 30 m and 90 m of streams with anadromous or high value resident fish, the following guidelines apply.

Road crossings. To minimize adverse impacts to the environment and risks of degradation to fish and wildlife habitat and water quality, timber access roads will not be located within the 30-90 m area except where access needs require that a road cross a stream and there exists no feasible alternative. Road construction will occur only where it can be demonstrated that road design, construction, use, and maintenance will maintain important fish and wildlife habitat.

Windfirmness risk. Timber harvest design within the 30-90 m zone will consider the risk of blowdown in residual stands. Risk of blowdown will be evaluated on a site-specific basis. Minimum buffer widths will not be reduced because of a risk of blowdown.

Fish habitat. Site-specific stream conditions including stream flow rate, dissolved nutrient levels, large woody debris sources, water temperatures, probability of surface erosion, stream gradient, water quality, stream type (glacial vs. clearwater types), soil type, steepness of adjoining slopes, adjoining timber stand type and condition, and other local physical characteristics will be considered before any timber harvesting could occur. DFG will provide recommendations to DOF on the design of timber sales and road access based on these considerations during interagency review of the 5-year timber sale schedule and Forest Management Reports.

Unstable stream channels. If there is evidence or a high likelihood that a stream could change course and move into the existing 30 m no-harvest zone within 15 years after a proposed timber harvest, then harvesting in the area 30-90 m beyond the waterbody will not occur.

Wildlife habitat. Wildlife concentration areas, particularly for moose, bears, and furbearers, will preclude any logging activity in the area 30-90 m beyond the waterbody unless it can be demonstrated that the proposed harvesting will maintain or enhance important wildlife habitat. DFG will identify wildlife concentration areas during interagency review of the 5-year timber sale schedule and Forest Management Reports.

Public use. Timber harvest design within the 30-90 m zone will consider existing public use of stream corridors. Timber harvesting may occur in this zone if it can be demonstrated that opportunities for existing public uses including but not limited to sport fishing and hunting, trapping, fish and wildlife viewing, and camping will be maintained or enhanced.

Review of uncatalogued streams. DOF should identify streams for which field review is needed by year 2 of the 5-year sale schedule in order to allow enough time to plan field review during the seasons when salmon are likely to be present.

If timber sales are offered with less than two years notice (e.g., negotiated sales or sales of less than 160 acres), DNR will try to limit the number of stream reviews needed by locating sales in areas previously reviewed through the 5-year sale schedule or a Forest Management Report, in areas already field-checked for anadromous streams, or in areas without streams. If these sales include streams whose status is uncertain, DOF and DFG will review existing information to determine the likelihood that streams are anadromous. Sources of information should include 1:63,360 or larger scale topographic maps, the catalog of anadromous waters, air photos, and discussion with field staff. If DOF and DFG determine a stream is likely to be anadromous, the Forest Practices Act zones will apply. If the stream is not likely to be anadromous, the zones will not apply.

See also: "Access location and design - Stream buffers"

TRAIL CORRIDORS

General. This plan will cite existing trail corridor standards from the area and management plans. Each mapped trail in the SRF area will be placed in the appropriate category (i.e., local, regional, or statewide trail) and will be subject to the management guidelines for that category.

Identification of new trails. Additional trails may be identified during review of the 5-year timber sale schedule and Forest Management Reports. Steps for identifying additional

trails follow. These steps should be completed before the final FMR is published to allow for public review.

1. Identify actively used trails within proposed harvesting units or timber access corridors.
2. In consultation with DFG, DPOR, and the Matanuska-Susitna Borough, the Director of DOF will decide what trails qualify under the standards in the area and management plans.
3. Assign the trail to the appropriate category and apply the area and management plan guidelines for that category.

Iditarod Trail. The Susitna, Willow, and Fish Creek plans establish the guidelines for determining the width of the Iditarod Trail corridor. Within the SRF, the corridor width will be determined in accordance with these guidelines. If changes in these guidelines are proposed, they will be considered during the update of the Susitna and Willow plans, not in the SRF.

Selective commercial timber harvesting will be permitted in the trail corridor only if such harvests protect or enhance the visual, sound, and other characteristics of the trail. Other harvesting techniques such as clearcutting or seed tree harvesting may be permitted subject to consultation with DPOR where necessary to prevent or control outbreaks of insects, disease, wildfire, or hazards to public safety.

Timber harvesting for personal use is prohibited within 200' of the centerline of the Iditarod Trail except for incidental recreational use (e.g., camping along the trail) of up to one cord/year. Personal use harvesting will be permitted in the rest of the corridor only if such harvests protect or enhance the visual, sound, and other characteristics of the trail.

Timber cutting for incidental recreation use should use dead and down timber whenever possible.

All timber harvests within the Iditarod Trail corridor will be designed in consultation with the DNR Division of Parks and Outdoor Recreation.

TRUMPETER SWAN NESTING AREAS

Seasonal restrictions. Forestry activities that may damage trumpeter swan nesting habitat or cause visual or noise disturbance should be prohibited from April 1 through August 31 within at least 1/4-mile of waterbodies that have identified trumpeter swan nesting sites or staging areas. The area to which seasonal restrictions apply may be increased or decreased if the potential level of damage or disturbance warrants change as determined by the Division of Forestry in consultation with the Department of Fish and Game and the US Fish and Wildlife Service. If a waterbody that has been used for nesting is not occupied by June 15, forestry activities may be allowed between June 15 and August 31 within the 1/4-mile zone.

Site-specific buffers. Site-specific buffers to minimize visual disturbance to identified trumpeter swan nesting sites will be established by the Division of Forestry in consultation with the Department of Fish and Game and the US Fish and Wildlife Service at the time individual sales are designed.

See also: "Access location and design - Trumpeter swan nesting areas"

WILDLIFE HABITAT -- GENERAL

See also: "Access location and design - Road standards"
"Access location and design - Avoid interconnections"

Access Design and Management

ACCESS LOCATION AND DESIGN

Access plan. Prior to timber harvesting, a preliminary plan for access to the timber sale should be developed. Proposed access to timber sales will be included in years 3, 4, and 5 of the 5-year timber sale schedule and in the Forest Management Report for each sale.

Sensitive vegetative cover. Permanent logging roads should be aligned to avoid sensitive vegetative cover types such as riparian zones, wetlands, aquatic feeding sites (i.e., ponds), and naturally occurring forest openings. Roads in these cover types will be designed in concurrence with DFG.

Bear habitat. The arrangement of roads relative to black and brown bear food sources should be planned to minimize potential increases in hunting vulnerability.

Moose forage areas. Natural terrain features should be used to ensure the usability of moose forage areas, as well as other important seasonal use areas, by shielding these forage areas from road traffic. Permanent logging roads should be located in dense timber away from forest openings.

Stream buffers. Road crossings within stream buffers may be allowed when such roads are a better alternative for protecting water quality or when they are the only feasible access to timber. Feasible access is not necessarily the least costly (see "feasible" definition in glossary). Rights-of-way for stream crossing must be minimized.

Straight stretches. Minimize straight stretches of road of more than 1/4-mile in forested areas to increase the cover value for moose and minimize the effects of hunting from roads on local moose numbers.

Clearing. Minimize the width of the clearing along roads.

Road standards. In important fish and wildlife habitat areas, roads should be constructed to minimum standards to discourage high volume vehicle use but maintain safety and environmental conditions and meet management objectives. These will generally be slow speed, single track roads without large cuts and fills. DFG will identify important habitat areas as part of the interagency review of the 5-year sale schedule and Forest Management Reports.

Cuts and fills. Steep cuts and fills should be avoided so as not to block moose travel routes.

Landing areas. Locate log landing areas to minimize the amount of road and skid trail construction.

Avoid interconnections. To reduce impacts from road hunting and allow greater control of access in local areas, secondary logging road systems should not be designed to interconnect.

ROAD CONSTRUCTION

Wildlife concentration areas. Road construction times and locations should be scheduled to avoid displacing wildlife from seasonal concentration areas.

Topsoil. Where feasible, topsoil from road construction should be stored for later use in restoration.

See also: "Slash disposal - rights-of-way"

ROAD MANAGEMENT

Public use. Timber access roads will be open to public use except during spring break-up or other conditions when the roadbed would be damaged by vehicle traffic or when necessary to protect sensitive wildlife populations or other public resources along the road. Road closures will be done subject to the regulations in 11 AAC _____. [Note: Regulations for road closure are currently being developed by DNR. When adopted, they will guide road closure decisions statewide. Public notice is required prior to adoption of the regulations.]

Restrictions in sensitive moose areas. Restrict public access in sensitive moose areas by closing spur roads during critical seasonal periods. DFG will identify sensitive moose areas when they review the 5-year sale schedule and Forest Management Report.

Putting-to-bed. Non-permanent roads and skid trails should be put to bed (see glossary for definition of put to bed). Unless otherwise specified in this plan or in a Forest Management Report, this will include secondary roads and spur roads.

Roads put to bed should be scarified to encourage the establishment of moose browse immediately after timber removal has been completed. In southcentral Alaska, browse plants include most willow species, birch, aspen, cottonwood, high-bush cranberry, labrador tea, and other woody shrubs and forbs.

Trumpeter swan nesting areas. Specific guidelines for development and management of access within one mile of waterbodies with identified trumpeter swan nesting sites will be developed by the Division of Forestry in consultation with the Department of Fish and Game and the US Fish and Wildlife Service at the time access is designed. Facilities and permanent roads for timber management should be at least one mile from waterbodies used for trumpeter swan nesting. The distances between facilities and mainline roads and these waterbodies may be increased or decreased based on site-specific environmental and economic factors by the Division of Forestry in consultation with the Department of Fish and Game and the US Fish and Wildlife Service.

Public Notice and Interagency Coordination

NOTICE FOR 5-YEAR TIMBER SALE SCHEDULE

Interagency notice. Interagency notice should be given prior to public notice to allow for resolution of interagency disagreements before the public comment period.

Public notice. Annual public notice should be provided for the 5-year sale schedule. This notice should include display advertisements that appear at least twice in Anchorage and Mat-Su Valley newspapers. The Division of Forestry should also maintain a mailing list of local governments, post offices, community councils, and interest groups that may be

affected by timber management activities in the Susitna Regional Forest Plan (SRFP) area. Annual notice of the 5-year sale schedule should be sent to all parties on the mailing list. Notices may be brief, but should include a map sufficient to let the recipients know whether or not sales are proposed in their areas of interest and directions for obtaining more detailed information on the sale schedule. Additional methods of notifying the public of the sale schedule may be used as appropriate.

DNR will notify landowners or lessees of state lands near proposed sales on year 4 of the sale schedule. Year 4 is the design phase; sales in year 4 are proposed for sale the year following the notice. Notification will be sent to landowners and lessees within 1/4-mile of a proposed sale boundary. Notice should include a location map and directions for obtaining more detailed information. The borough tax records will be used as the source for identifying landowners; information on lessees can be obtained from the DNR Division of Land and Water Management.

If annual operating plans propose changes that significantly deviate from the FMR, DOF should notify the same landowners notified of the sale through the FMR or 5-year schedule. Significant deviations include such actions as changes in the sale boundary, changes in the location of cutting units, changes in the harvesting system, or changes in access routes.

NOTICE FOR TIMBER SALES NOT ON THE 5-YEAR SCHEDULE

FPA requirements. Under proposed Forest Practices Act revisions, competitive timber sales with less than 160 acres of cutting units need not appear on the timber sale schedule. The state intends to include most small sales in the schedule, but some may not be included. Existing law (AS 38.05.118) also allows negotiated sales where there is high unemployment and available timber

A Forest Management Report (FMR) and public notice is required for all sales. Existing law (AS 38.05.945) requires public notice at least 30 days prior to the proposed sale. Notice must include newspaper ads; notice to municipalities, Native corporations, and local postmasters; and at least one other method of public notice.

Landowner + lessee notice.

Within the SRFP area, DNR will notify landowners and lessees of state lands near proposed timber sales. DNR will notify landowners within 1/4-mile of a proposed sale boundary. The larger notification area is to ensure notice of affected owners in areas where there is no town government, and where access limits communication between residents and participation in organizations. Notice should be sent when the draft Forest Management Report is developed. The notice will include a location map and directions for getting more detailed information.

NOTICE FOR PERSONAL USE AREAS

Permits and sales. Individual permits for personal use wood harvesting are exempt from the notice requirements for commercial timber sales. Designated personal use harvesting areas that will be open for multiple personal use permits should be included on the five-year sale schedule. These designated personal use areas will be subject to the notice requirements in for commercial sales.

NOTICE FOR NEGOTIATED SALES UNDER AS 38.05.110

Small negotiated sales. Small negotiated sales under section .110 do not require additional public notice if:

1. the sale was previously listed on a 5-year sale schedule that received public and agency review, or
2. there are no private lands within 1/4-mile of the sale.

If the proposed sale does not qualify under 1 or 2, a 30-day notice should be sent to affected landowners. These include landowners and lessees of state land within 1/4-mile of the sale.

See also: "Trail corridors - Iditarod Trail"

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Appendix A

GLOSSARY

AAC. Alaska Administrative Code.

All-season road. A road constructed and intended to be used in all seasons of the year.

Anadromous fish stream. Streams identified by DFG in the Catalog of Anadromous Waters are anadromous streams. In lieu of site-specific determinations that a stream does or does not contain anadromous fish, it should, for planning purposes, be presumed that a stream is anadromous if it is connected to anadromous waters without DFG-documented physical blockage and has a stream gradient of 8% or less. Where a previous site visit has not been made, DFG will, at the operator's request, conduct a field review to document the presence of anadromous fish. The field review will be scheduled when anadromous fish are likely to be present and the site is accessible.

Annual allowable cut. The maximum quantity of wood that can be sold and harvested on a sustained yield basis.

AS. Alaska Statutes.

Broadcast burning. The management technique of burning slash or other vegetation within an area for the purpose of enhancement of forest regeneration, fire hazard reduction, or habitat improvement.

Clearcuts. Cuts where all trees are harvested within a cutting unit, and where the cutting unit is five acres or greater in size. (See diagram on last page.)

Cutting unit: The area from which trees are actually removed. (See diagram on last page.)

Consultation. Processes followed by the Department of Natural Resources under existing statutes, regulations and procedures to inform other groups of the intention to take some action, and seek their advice or assistance in deciding what to do. Consultation is not intended to be binding on a decision. It is a means of informing affected organizations and individuals about forthcoming decisions and getting the benefit of their expertise. DNR replies to parties offering advice or assistance by sending them the decision and the reasons for which the decision was made, or by notifying them that the decision and findings are available for review.

Cover habitat. Cover habitat includes hiding cover, snow interception cover, and thermal cover. See the individual definitions of these terms.

Cutting unit. The area from which trees are actually removed. (See diagram on last page.)

DEC. Department of Environmental Conservation.

Decking. The piling of logs.

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DFG. Alaska Department of Fish and Game.

DNR. Alaska Department of Natural Resources.

DOF. Alaska Department of Natural Resources, Division of Forestry.

DPOR. Alaska Department of Natural Resources, Division of Parks and Outdoor Recreation.

DOT/PF. Alaska Department of Transportation and Public Facilities.

Eagle nesting sites. Nesting sites mapped by USFWS from their bald eagle surveys and shown on the map "Bald Eagle Nesting Sites" accompanying this plan. Sites can be added to or deleted from the map based on new information from USFWS eagle surveys or inspection of specific sites. Additions or deletions will be made by DNR in concurrence with DFG and USFWS. Changes to the map will be based on physical characteristics for nesting and evidence of use.

Experimental Forest. Forest land retained for forest research that involves site manipulation or long-term observation (e.g., timber management research, habitat enhancement research).

Feasible. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, technical, and safety factors.(11 AAC 95.900)

Feasible and Prudent. Consistent with sound engineering practice and not causing environmental, social or economic problems that outweigh the public benefit to be derived from compliance with the guideline.(6 AAC 80.900)

Goal. A statement of basic intent or of a general condition desired in the long term. Goals usually are not quantifiable nor do they have specified dates for achievement.

Group selection cuts. Cuts where all trees are harvested within a cutting unit, and where the cutting unit is less than five acres in size. (See diagram on last page.)

Guideline. A specific course of action that must be followed when a resource manager permits, leases or otherwise authorizes use of state lands. Some guidelines state the intent that must be followed and allow flexibility in achieving it. Guidelines range from giving general guidance for decision-making or identifying factors to consider, to setting detailed standards for on-the-ground decisions.

Harvest unit. One or more cutting units plus the uncut areas between them. The total area of cutting units within a harvest unit is generally 5-50 acres. Unless otherwise specified for a particular sale, harvest units will be separated by a buffer of at least 330 feet. (See diagram on last page.)

Hiding cover. Hiding cover is vegetation capable of hiding 90% of a standing adult moose from the view of a human at a distance of 200 feet. Generally, hiding cover is provided by vegetation that...[to be completed by DFG and DOF]

Ice bridge. A bridge of ice across a lake, river, or stream, either natural or constructed to a specified thickness to safely accommodate specified vehicle loads.

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Identified trumpeter swan nesting sites. Nesting sites mapped by USFWS in their 1875, 1980, and 1985 swan surveys and shown on the map "Trumpeter Swan Nesting Sites" accompanying this plan. Sites can be added to or deleted from the map based on new information from USFWS swan surveys or inspection of specific sites. Additions or deletions will be made by DNR in concurrence with DFG and USFWS. Changes to the map will be based on physical characteristics for nesting, evidence of use for nesting within the prior 20 years, and presence or absence of human disturbance.

Landing. A cleared area in the woods to which logs are yarded for loading onto trucks for shipment to a processing plant.

Land use designations. Allocations that set out primary and secondary land uses.

Large woody debris. Any large piece of relatively stable woody material having a least diameter of greater than 10 cm (4") and a length greater than 1m (3.3ft) that intrudes into the stream channel.

Mainline road. A permanent, year-round road built to provide access to continuing harvest operations and identified by DOF as a mainline road at the time the road is designed.

Management Intent Statement. The statements that define the department's near- and long-term management objectives and the methods to achieve those objectives.

Multiple use. The term "multiple use" as defined in the Alaska Forest Resources and Practices Act (A.S. 41.17.950) means:

1. The management of all the various resources of forest land so that they are used in the combination that will best meet the needs of the citizens of Alaska, making the most judicious use of the land for some or all of these resources or related values, benefits, and services over areas large enough to provide sufficient latitude for periodic adjustment in use to conform to changing needs and conditions;
2. That some land will be used for less than all of the resources; and
3. Harmonious and coordinated management of the various resources, each with the other, without significant impairment of the productivity of the land and water, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

Multiple use road. A road constructed and intended to be used for more than one use such as timber harvest, recreation, hunting access, and mining.

Off-highway vehicle. A vehicle designed or adapted for cross-country operation over unimproved terrain, ice, or snow, and which has been determined by the Department of Transportation to be unsuitable for general highway use. (13 AAC 40.010)

Off-road vehicle. Same as off-highway vehicle.

Pesticide. Pesticide includes any chemical or biological agent intended for use as an insecticide, herbicide, rodenticide, fungicide, or other biocide. (18 AAC 90.600)

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Policy. An intended course of action or a principle for guiding actions. DNR policies for land and resource management given in this plan include goals, management intent statements, management guidelines, and use designations, implementation plans and procedures and the various other statements of the DNR's intentions.

Primary road. A permanent road which provides access to within at least 5 miles of the management site. It is built to accommodate two way traffic at moderate speeds (Road Standards p.2-32).

Primary Use. A designated, allowed use of major importance in a particular management unit. Resources in the unit will be managed to encourage, develop or protect this use. Where a management unit has two or more designated primary uses, the management intent statement and guidelines for the unit - together with existing regulations and procedures - will direct how resources are managed to avoid or minimize conflict between these primary uses.

Prohibited Use. A use not allowed in a management unit because of conflicts with management intent, designated primary or secondary uses, or management guidelines. Uses not specifically prohibited nor designated as primary or secondary uses in a management unit are allowed if compatible with primary and secondary uses, the management intent statements for the unit and the plan's guidelines.

Put-to-bed. A process to stabilize and terminate the use of a logging road, trail, or other means of access. Roadbeds may be scarified to encourage revegetation; culverts, bridges, etc., may be removed; scarification is done; final grading is done to prevent erosion; water bars may be constructed, barricades may be erected, and in some cases the surface is seeded to reduce erosion.

Remote Cabin. Cabin constructed under a permit issued through the Remote Cabin Permit program authorized in AS 38.05.079 and further described in 11 AAC 67.700-.790.

Research natural area. Ecologically representative or unique sites maintained in a natural state for education, long-term observation research, and environmental monitoring.

Rotation. The period of years required to establish and grow timber a specified condition of maturity. (Soc. of Am. For.)

Salvage cutting. A harvest of trees killed or injured to recover as much useable wood as possible prior to deterioration and decomposition.

Scarification. Mechanical process of exposing mineral soil on the forest floor in order to enhance the establishment and development of a new forest crop.

Seasonal wildlife concentration area. Area in which the density of animals of a given species exceeds the density of that species in the surrounding area and is necessary to the perpetuation of the population.

Secondary road. A road constructed and maintained to standards sufficient for timber transportation that provides access to harvest areas. Secondary roads connect spur roads to primary roads.

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Secondary Use. A designated, allowed use considered important but intended to receive less emphasis than a primary use because it: (a) has less potential than a primary use or contributes less to achieving the management intent of the unit than a primary use; or, (b) occurs only on limited sites. In those very site-specific situations where a secondary use has higher value than a primary use, the secondary use may take precedence over the primary use. Management for a secondary use will recognize and protect primary uses through application of guidelines, regulations and procedures. However, if a secondary use can not take place without detrimentally affecting a primary use in the management unit as a whole, the secondary use will not be allowed.

Selective harvesting. Removal of mature timber, usually the oldest or largest trees, either as single scattered trees or in small groups at relatively short intervals, commonly 5 to 20 years, repeated indefinitely, by means of which the continuous establishment of natural reproduction is encouraged and an uneven-aged stand is maintained. Selective harvesting includes both single-tree selection and group selection (q.v.) harvesting.

Shall. Requiring a course of action or a set of conditions to be achieved. A guideline modified by the word "shall" is required to be followed by resource managers or users. If a guideline constrained by the term "shall" is not complied with, a written decision justifying the variation is required (see Plan Modification - Chapter 4).

Should. Stating intent for a course of action or a set of conditions to be achieved. A guideline modified by the word "should" states the intent of the plan and allows a resource manager to use judgment and discretion in deciding either: (a) the specific means for best achieving the intent; or, (b) whether particular circumstances justify deviation from the intended action or set of conditions. A guideline may include criteria for deciding whether such a deviation is justified.

Silviculture. The theory and practice of controlling forest establishment, composition, and growth.

Skid. To pull logs from the stump to the skidroad and landing.

Slash. Debris left after logging; also, large accumulations of debris after wind or fire. It includes logs, chunks, bark, branches, stumps, and broken understory or brush.

Snags. Dead standing trees or portions thereof.

Snow interception cover. Snow interception cover is vegetation that reduces snow depths on the ground. Shallower snow reduces the energy needed for wildlife movement. In southcentral Alaska, stands with $\geq 70\%$ coniferous trees with a mean height of ≥ 35 feet provide optimal snow interception cover. Forest stands with lower proportions of coniferous trees offer proportionally less snow interception cover."

Spur road. A road constructed for access within a timber sale. These roads are generally temporary roads less than one mile in length. Spur roads connect the cutting units to secondary (or occasionally primary) roads.

State lands. All lands, including uplands, tide and submerged lands, or resources belonging to or acquired by the State. State patented, tentatively approved, and state selected lands are included in this definition.

2nd draft: 1/15/90

Sustained yield. The achievement and maintenance in perpetuity of a high level annual or periodic output of the various renewable resources of forest land and water without significant impairment of the productivity of the land and water. This does not require that timber be harvested in a non-declining basis over a rotation period.

Thermal cover. Thermal cover is vegetation that moderates adverse climatic conditions by providing summer shade and trapping radiant energy in the winter. In southcentral Alaska, stands with $\geq 70\%$ coniferous trees with a mean height of ≥ 35 feet provide optimal thermal cover. Forest stands with lower proportions of coniferous trees offer proportionally less thermal cover.

Timber sale. One or more harvest units offered for sale under a single contract and described in a Forest Management Report.

Trumpeter swan staging areas. Areas traditionally used by flocks of trumpeter swans, usually estuaries and tide flats, for feeding and resting during fall or spring migration.

USDA. United States Department of Agriculture.

Will. Used interchangeably with and meaning the same as "shall" (see above).

Wetlands. Wetlands includes both freshwater and saltwater wetlands. Freshwater wetlands means those environments characterized by rooted vegetation which is partially submerged either continuously or periodically by surface freshwater with less than .5 parts per thousand salt content and not exceeding three meters in depth; saltwater wetlands means those coastal areas along sheltered shorelines characterized by halophilic hydrophytes and macro-algae extending from extreme low tide to an area above extreme high tide which is influenced by sea spray or tidally-included water table changes. (6 AAC 80.900)

Winter road. A road constructed and intended for winter use only when the ground is frozen and snow depths greater than a specified minimum.

Yarding. The process of pulling or skidding logs to a centralized point or landing where they are piled prior to loading or hauling away.

Years 1 - 5. In the 5-year timber sale schedule, year 5 is the current year, the year sales are offered for purchase. Year 1 is the first year proposed sales can be on the schedule, it is four years prior to the proposed sale date.

(b) All orders issued under AS 41.17.131 — 41.17.141 are enforceable by injunction, attachment, garnishment, or other appropriate remedy. (§ 1 ch 108 SLA 1978)

Revisor's notes. — Formerly AS 41.17.130(f) and (g). Renumbered in 1983.

Sec. 41.17.143. Appeals and judicial review. (a) An administrative action of the department under this chapter, except actions under AS 41.17.131 — 41.17.141 and except for adoption of regulations, may be appealed to the commissioner within 30 days after it is taken. The commissioner shall hold a hearing, at which all substantial issues shall be considered, within 15 days after an appeal is filed. The respondent shall be granted 10-day extensions up to a total of 60 days upon request. Within 10 days after conclusion of the hearing, the commissioner shall issue a written decision based upon the evidence, which shall be provided to the appellant. The commissioner may delegate duties, in whole or in part, under this subsection to a hearing officer appointed by the attorney general from among members of the Alaska Bar Association who have been nominated by the Board of Forestry and who are knowledgeable and experienced in the subject matter.

(b) A final decision under (a) of this section or a final order under AS 41.17.133 may be appealed to the superior court within 30 days after it is issued. Judicial review shall be as provided in AS 44.62.560 and 44.62.570.

(c) A temporary order issued under AS 41.17.137 may be immediately appealed to the superior court as to its propriety. § 1 ch 108 SLA 1978)

Revisor's notes. — Formerly AS 41.17.140. Renumbered in 1983.

NOTES TO DECISIONS

Quoted in Southeast Alaska Conservation Council, Inc. v. State, Sup. Ct. Op. No. 2662 (File No. 5855), 665 P.2d 544 (1983).

Article 3. State Forest System.

Section
200. State forest purposes
210. State forests

Section
220. Management of state forests
230. Management plans

Sec. 41.17.200. State forest purposes. The purpose of AS 41.17.200 — 41.17.230 is to permit the establishment of designated state-owned or acquired land and water areas as state forests. The primary purpose in the establishment of state forests is the perpetuation of personal, commercial, and other beneficial uses of resources through multiple-use management. (§ 1 ch 91 SLA 1983)

Sec. 41.17.210. State forests. (a) The governor may propose to the legislature the establishment of state forests consisting primarily of commercially valuable forest land determined by the governor to be necessary for retention in state ownership for management under the principles of multiple use and sustained yield and consistent with AS 38.04.005. The proposal of the governor shall include a report and recommendations of the commissioner including

- (1) a preliminary forest inventory;
- (2) a summary of the testimony offered at public hearings held on the management of the proposed state forest in communities proximately located to a proposed state forest;
- (3) the findings of the commissioner on anticipated incompatibilities of uses described in AS 41.17.230(e) under AS 41.17.230(f);
- (4) written comments from appropriate state agencies on the compatibility of the uses described in AS 41.17.230(e) within the proposed state forest;
- (5) an estimate of the cost of a full implementation of an operational level forest inventory and the management plan.

(b) A state forest established by the legislature shall be retained in state ownership. (§ 1 ch 91 SLA 1983)

Sec. 41.17.220. Management of state forests. Land within a state forest or within a unit of a state forest shall be managed under

- (1) the principles of multiple-use and sustained yield;
- (2) this chapter; and
- (3) a management plan prepared by the department. (§ 1 ch 91 SLA 1983)

Sec. 41.17.230. Management plans. (a) The commissioner shall prepare a management plan consistent with AS 38.04.005 and this chapter for each state forest and for each unit of a state forest to assist in meeting the requirements of this chapter. An operational level forest inventory shall be completed before a management plan for the state forest or the unit of a state forest is adopted. The management plan shall be adopted, implemented and maintained within three years of the establishment of a state forest by the legislature.

(b) The commissioner shall review a management plan at least once every five years and may revise the plan when necessary.

(c) A management plan may not be adopted or revised after the establishment of the state forest without prior review by the Board of Forestry and by other appropriate state agencies or without prior public hearings held in a community proximately located to the state forest or to a unit of a state forest.

(d) A copy of a management plan or a revision to a management plan adopted or prepared by the commissioner shall be provided to the legislature within 30 days of its adoption or revision or within the first 15 days of the first regular session of the legislature to convene after its adoption or revision.

(e) The commissioner shall consider and permit the following uses under a management plan prepared under (a) or (b) of this section subject to a determination under (f) of this section:

- (1) commercial timber harvest and related activities;
- (2) harvest of forest products for personal use;
- (3) mining, mining claim, and mineral leasehold location;
- (4) mineral leasing;
- (5) material extraction;
- (6) recreation;
- (7) wildlife and fisheries habitat management including critical habitat management;
- (8) greenbelts;
- (9) trapping and sport and subsistence fishing and hunting;
- (10) grazing;
- (11) watershed management;
- (12) research;
- (13) uses consistent with the policies of AS 38.04.015; and
- (14) other traditional, compatible uses.

(f) A management plan prepared by the commissioner shall consider and permit the uses described in (e) of this section. If the commissioner finds that a permitted use is incompatible with one or more other uses in a portion of a state forest, the commissioner shall affirmatively state in the management plan that finding of incompatibility for the specific area where the incompatibility is anticipated to exist and the time period when the incompatibility is anticipated to exist together with the reasons for each finding. (§ 1 ch 91 SLA 1983)

Article 4. State Land Reforestation.

Section

300. State land reforestation fund

310. Appropriations to state land reforestation fund

Section

320. Report to the legislature

Sec. 41.17.300. State land reforestation fund. A state land reforestation fund is established in the department. The money in the state land reforestation fund may be used only for the reforestation of state land, including site preparation, seed and seedling acquisition and cultivation, planting, and other reforestation measures, timber stand improvement, and the development of materials and techniques for the reforestation of state land. (§ 2 ch 91 SLA 1983)

Sec. 41.17.310. Appropriations to state land reforestation fund. (a) The state land reforestation fund consists of money appropriated by the legislature and contributions from private donors. It is the intent of the legislature that the appropriations made to the fund equal no less than 25 percent of the revenues from the sale of timber and other forest products from state land as well as the total revenues from

- (1) compensation for loss or damage to land within a state forest; and
- (2) the federal government and other governmental units for reforestation.

(b) Money appropriated to or paid into the state land reforestation fund does not lapse. (§ 2 ch 91 SLA 1983)

Sec. 41.17.320. Report to the legislature. The commissioner shall make an annual report to the legislature within the first 10 days of each session of the legislature on the uses of the money in the state land reforestation fund, the proposed uses of the fund in the following fiscal year, and the balance in the fund. (§ 2 ch 91 SLA 1983)

Article 5. Tanana Valley State Forest.

Section

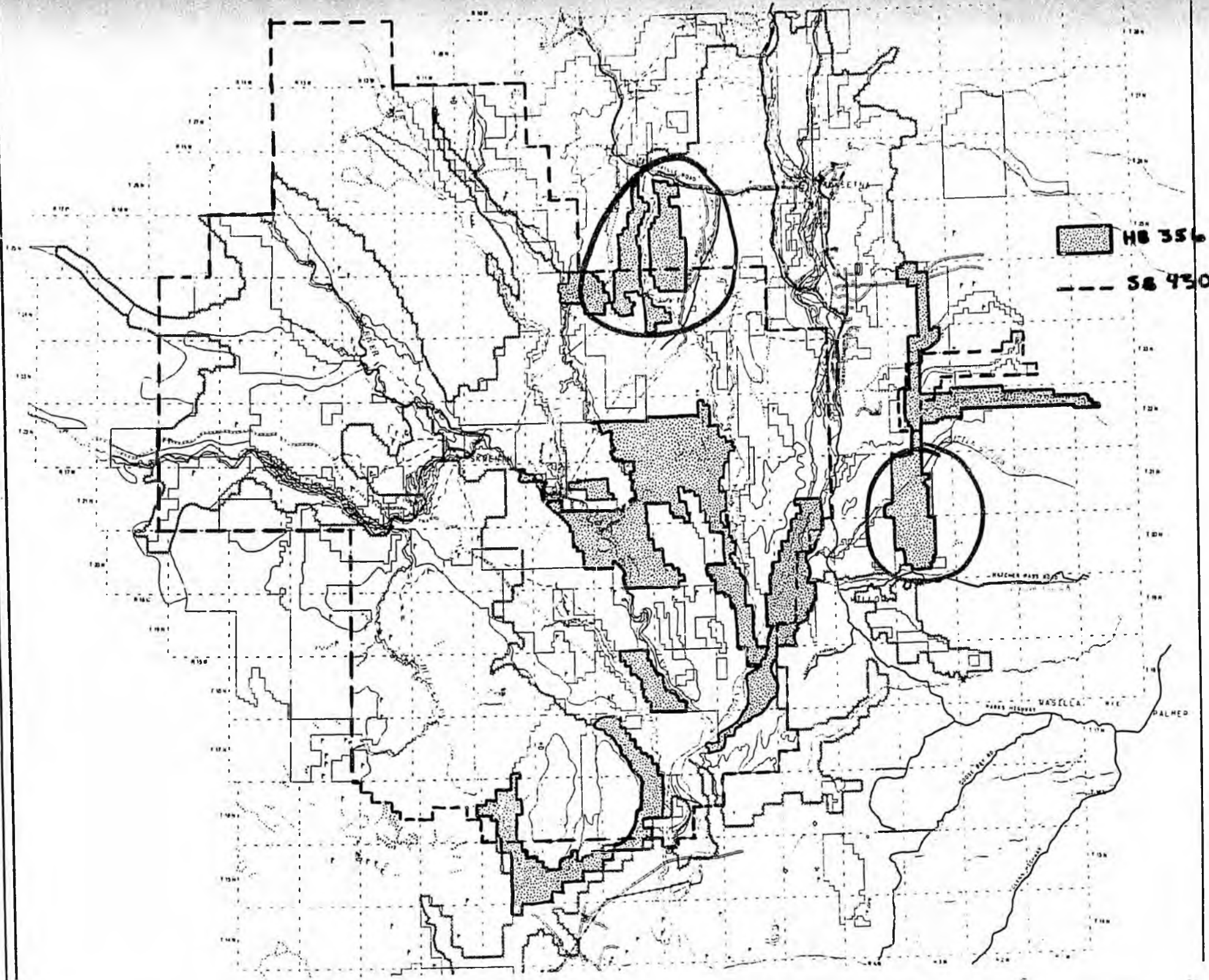
400. Tanana Valley State Forest

Sec. 41.17.400. Tanana Valley State Forest. (a) Subject to valid existing rights and except for land owned by or transferred to the University of Alaska under a settlement agreement between the state and the university, the state-owned or acquired land and water lying within the parcels described in (d) of this section is designated as the Tanana Valley State Forest.

(b) The commissioner shall prepare a management plan for the Tanana Valley State Forest under AS 41.17.230.

(c) In addition to the uses described in AS 41.17.230(e), the commissioner may establish transportation corridors within the Tanana Valley State Forest.

(d) The Tanana Valley State Forest includes the state-owned or acquired land and water lying within the following described parcels:



HB 356

SB 430

S

BACKGROUND INFORMATION ON FISH AND WILDLIFE VALUES
SUSITNA VALLEY

The Susitna Valley Remote Recreation Area encompasses the majority of the West Susitna River Valley drainages. These areas are exceptionally important to fish and wildlife and public recreation and include the Talachulitna, Deshka, Yentna, Skwentna, Kichatna, Kahiltna and portions of the Susitna River and Alexander, Lake, Moose and Kroto Creeks. The North Fork Kashwitna River, located on the east side of the Susitna River Valley is also included within the proposed recreation area.

Fishery resources produce in these drainages contribute to the sport, commercial, subsistence fisheries in Cook Inlet, and support highly valuable recreational fisheries. Fish produced in streams of the recreational area include chinook, coho, sockeye, chum and pink salmon, Dolly Varden, rainbow trout and Arctic grayling. During the 10 year period 1979 through 1988, the ex-vessel value of Susitna River drainage bound salmon to the commercial fishery averaged \$9,045,800.

The value of the recreational fishery of drainages within the proposed remote recreational area was estimated in 1986 to be approximately \$6,500,000. This information was developed through the Southcentral Alaska Sport Fishing Economic Study prepared by Jones and Stokes and Associated, Inc., 1978. Based on the Alaska Statewide Sport Fisheries Harvest Report developed by the ADF&G, approximately 32,920 anglers spent 95,339 days recreationally fishing streams within the remote recreation area. Additional recreational value of the area is the value to the commercial recreation business. Based on information developed for the Susitna Regional Forest Plan, approximately 52 commercial lodges operate in the area. According to information collected by the Susitna Valley Association, the value of commercial recreation to air charter services in combined businesses was \$11,400,000. The combined gross income in 1987 of remote lodges in the valley was \$3,340,000.

This area provides important habitat for wildlife, notably moose, black and brown bear, furbearers, waterfowl and bald eagles. The river drainages are particularly important to moose as winter habitat. Department staff estimated the value of moose hunting in the lower Susitna River valley for 1988. The reported moose harvest data for 1988 indicate that 3,949 hunters hunted 22,159 days. Based on an economic analysis, the total value of moose hunting in the valley was \$11.57 million.

H B

387

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 8, 1990

FURTHER REFERRALS:

Date of Committee Action: 02/20/90

The RESOURCES Committee considered:

HB 387

HOUSE BILL NO. 387

CONTROLLED LIVESTOCK DISTRICTS

"An Act relating to controlled livestock districts."

RECOMMENDATIONS:

- be replaced with CS HB 387 (RES) the same title
 a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note DNR
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

Grant Mendenhall
Mike D

	Do Not Pass	No Rec	Amend
<u>Cly Davidson</u>		✓	
<u>Bill Huds</u>		✓	
<u>Beth Sharp</u>		✓	
<u>[Signature]</u>		✓	

Grant Mendenhall
Chairman's Signature

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : HB 387
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: 7-Feb-90 Agency Affected: Natural Resources
 Title: An Act relating to controlled BRU: Land & Water Management
livestock districts.
 Sponsor: Swackhammer and Navarre Components: _____
 Requestor: Resources Land & Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Larry Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: 7-Feb-90

Approved by Commissioner: *Lennie Gorsuch* Date: 7-Feb-90
 Agency: Department of Natural Resources

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

Original sponsor(s): REP. SWACKHAMMER, Navarre

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 387 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to controlled livestock districts."

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

8 * Section 1. AS 03.35.010 is amended to read:

9 Sec. 03.35.010. ESTABLISHMENT [CREATION] AND RESTRICTION IN USE
 10 OF CONTROLLED LIVESTOCK DISTRICTS. A district judge may [CREATE AND]
 11 establish a controlled livestock district within a municipality [CITY
 12 OR ORGANIZED BOROUGH,] or in other settled areas of the state, as
 13 provided in this chapter, to consist of [ONE OR MORE TOWNSHIPS OR
 14 PORTIONS THEREOF OR OF] a contiguous area of not less than 1,280
 15 acres. The owner and the person having custody and control of a
 16 domestic animal may not knowingly permit the [IT IS UNLAWFUL FOR ANY]
 17 domestic animal to graze or run at large within a controlled livestock
 18 district [UNLESS THE DOMESTIC ANIMAL IS HERDED ON OPEN PUBLIC DOMAIN
 19 AND TENDED BY A PERSON AND PREVENTED FROM GRAZING UPON PRIVATE ROADS
 20 OR HIGHWAYS AND PRIVATELY OWNED LAND].

21 * Sec. 2. AS 03.35.010 is amended by adding a new subsection to read:

22 (b) Violation of (a) of this section is a class B misdemeanor.

23 * Sec. 3. AS 03.35.020(a) is amended to read:

24 (a) A controlled livestock district may be established [CREATED]
 25 upon petition of not less than 60 percent of the resident owners and
 26 lessees of the [CULTIVATED] land within the area to be included in the
 27 district. The petition must [SHALL] contain a statement of its pur-
 28 pose, [SHALL] define the boundaries of the area to be included within
 29 the district, [SHALL] be signed by [THE REQUISITE] 60 percent of the

1 resident owners and lessees within the area described, and [SHALL] be
2 filed with the district judge for the district within which the land
3 is situated.

4 * Sec. 4. AS 03.35.020(c) is amended to read:

5 (c) A portion [PORTIONS] of a controlled livestock district may
6 be eliminated or a [AN ENTIRE] district may be dissolved [ABOLISHED OR
7 ELIMINATED] if 60 percent of the resident owners and lessees of the
8 [CULTIVATED] land within the district or the area affected petition
9 for the elimination or dissolution under [ABOLISHMENT, IN WHICH EVENT]
10 the procedure set out in this section for the establishment [FORMA-
11 TION] of a controlled livestock district [SHALL BE FOLLOWED FOR DISSO-
12 LUTION].

13 * Sec. 5. AS 03.35.030 is amended to read:

14 Sec. 03.35.030. NOTICE, HEARING, AND ORDER. Upon receipt of a
15 petition for the establishment, addition, elimination, or dissolution
16 of a controlled livestock district, the district judge shall set a
17 time for hearing the petition not less than 30 days after its receipt
18 [THEREAFTER]. Notice of the time and place of the hearing and its
19 purpose shall be posted in not less than three conspicuous public
20 places within the proposed district, including a post office, for a
21 period of at least 30 days before the hearing. If there is no post
22 office within the proposed district, then the notice shall be posted
23 in two conspicuous public places in the proposed district and in the
24 post office nearest the proposed district. If, at the hearing, the
25 district judge finds that the petition meets the requirements estab-
26 lished under AS 03.35.020 [IS SUFFICIENT] and that notice of the
27 hearing has been given, the district judge shall enter an order grant-
28 ing the request contained within the petition. The boundaries of the
29 district are those proposed within the petition [CREATING AND

1 ESTABLISHING THE CONTROLLED LIVESTOCK DISTRICT AND DESCRIBING ITS
2 BOUNDARIES]. The district judge shall certify to the clerk of the
3 superior court for the judicial district a copy of the findings and
4 order. The district judge shall send a copy of the order to the
5 commissioner of natural resources (DIRECTOR, DIVISION OF AGRICULTURE,
6 DEPARTMENT OF NATURAL RESOURCES).

7 * Sec. 6. AS 03.35 is amended by adding a new section to read:

8 Sec. 03.35.035. IDENTIFICATION OF DOMESTIC ANIMALS WITHIN CON-
9 TROLLED LIVESTOCK DISTRICT. (a) Within 60 days of the establishment
10 of a controlled livestock district or of the addition to an estab-
11 lished controlled livestock district under AS 03.35.010, the person
12 having custody and control of domestic animals located within the
13 district shall identify the animals under AS 03.40, use identification
14 collars to indicate ownership, or otherwise use a reliable system for
15 the identification of the ownership of the animal.

16 (b) A person who violates (a) of this section commits a viola-
17 tion.

18 * Sec. 7. AS 03.35.040 is amended to read:

19 Sec. 03.35.040. LIABILITY FOR DAMAGES, AND LIEN. (a) The owner
20 of land within a controlled livestock district, whether the land is
21 fenced or unfenced, [(1)] is entitled to recover, from the owner or
22 person having custody and control of a domestic animal, for any injury
23 done by the animal [(IT)] when grazing or running at large within a
24 controlled livestock district contrary to the provisions of this
25 chapter, and [(2)] has a lien upon the domestic animal for the amount
26 of the damage done.

27 (b) A [(HOWEVER, NO)] claim for damages may not exceed \$500 [(IN
28 EXCESS OF \$50 IS ALLOWED)] against any one animal for any one trespass.

REPRESENTATIVE
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



House of Representatives

February 20, 1990

SUMMARY OF AMENDMENTS TO HOUSE BILL 387

Page 1, line 25; Page 2, line 1; and Page 2, line 7: Before "owners", the word "resident" is inserted. This allows for only the resident landowners to be able to petition the district court for the establishment or dissolution of a controlled livestock district. Otherwise, those landowners, who do not live in state, would be involved in the petition process. The process would be virtually unmanageable for petitioners who wish to establish or dissolve a controlled livestock district. The out of state owners also are not affected as greatly by roaming livestock as those who reside in an area where livestock problems may exist.

Page 3, line 10: Deleted "the owner or" after "AS 03.35.010,". Legal Services believes an owner could be put in jeopardy of receiving a violation should he or she not have the custody or control of the livestock at a particular time. However, the definition of the person having custody and control does not exclude an owner who may indeed have custody and control of the animals on a controlled livestock district.

Page 2, line 25: Deleted "is sufficient" and substituted "meets the requirements established under A.S. 03.35.020". This clarifies the standards for which the petition is to be considered by the district court judge.

Page 3, line 15: Added Section (b) which establishes a violation for failure to properly brand, mark or use other reasonable means to identify animals within a controlled livestock district.

SOLDOTNA

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SOLDOTNA, ALASKA 99899
(907) 282-7841

JUNEAU

BOX V
JUNEAU, ALASKA 99811
(907) 485-2889

REPRESENTATIVE
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



House of Representatives

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JUNEAU
BOX V
JUNEAU, ALASKA 99811
(907) 465-2689

January 31, 1990

SECTIONAL ANALYSIS OF HOUSE BILL 387

SECTION ONE: Amends A.S. 03.35.010 which allows for the establishment of a controlled livestock district. Since portions of this statute date back to the 1941 Territorial legislature, the drafter improved upon the adopted language by deleting the following:

1. "CREATION," substituting "ESTABLISHMENT"
2. "city or organized borough," substituting "municipality"
3. "one or more townships or portions thereof or of" (This reference is not necessary since the basic requirement is that the district have 1280 acres.)
4. "It is unlawful for any," substituting "The owner and the person having custody and control of a domestic animal may not knowingly permit the"
5. "unless the domestic animal is herded on open public domain and tended by a person and prevented from grazing upon private roads or highways and privately owned land." (This deletion is necessary to close loopholes upon the establishment of a controlled livestock district.)

SECTION TWO: Adds a new subsection to A.S. 03.35.010. Establishes a Class B misdemeanor for a violation of A.S. 03.35.010 (a). This allows for livestock trespass cases to be handled in a manner other than the impractical means of impoundment.

SECTION THREE: Amends A.S. 03.35.020 (a) that describes the petition process to establish a controlled livestock district. As in section one, this statute is fraught with outdated language. References to "resident" owners and "the requisite" were deleted as surplus. It was necessary to delete the word "cultivated." The legislative intent of the cultivated lands provision was to protect farmers from marauding livestock at a time when few people occupied rural areas. Thus, this archaic concept failed to provide any protection for people who settle in rural areas merely to enjoy country living and are not involved with commercial agriculture or grazing.

SECTION FOUR: Amends A.S. 03.35.030 which establishes the procedure for the elimination or dissolution of a controlled livestock district through the petition process. As in previous sections, the changes are merely "clean-up" in nature.

SECTION FIVE: Amends A.S. 03.35.030. This statute addresses the notice, hearing and order procedures upon receipt of the petition by a District Court to establish or dissolve a controlled livestock district. Once again, the changes reflect an update of current drafting styles. The only significant change has the district judge sending a copy of the order to the commissioner of the Department of Natural Resources rather than the director of the Division of Agriculture.

SECTION SIX: Adds a new section to A.S. 03.35. This section makes it mandatory for livestock owners within a controlled livestock district to use a reliable system for the identification of the ownership of the animal. Means for identification established under A.S. 03.40 (brands and marks), identification collars or any other reliable system will be appropriate.

SECTION SEVEN: Amends A.S. 03.35.040. Updates the language in this section and revises to a more reasonable figure (\$500) the amount available for damages.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. SWACKHAMMER

TO: HB 387

Page 1, line 25:

Delete "[RESIDENT]"

Insert "resident"

Page 2, line 1:

Delete "[RESIDENT]"

Insert "resident"

~~Page 3, line 7, after "DISTRICT."~~

~~Insert "(a)"~~

~~Page 3, after line 13.~~

~~Insert~~

~~"(b) Violation of (a) of this section is a class B misdemeanor."~~

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

February 6, 1990

The Honorable Curt Menard
The Honorable Cliff Davidson
Co-Chairmen
House Resources Committee
State House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representatives Menard and Davidson:

Subject: HB 387, An act relating to controlled livestock districts.

Position: The department does not oppose this bill.


Background: This bill would enable 60 percent of owners and lessees within a given area to create a controlled livestock district through petition to a District Court. Such a change would make the uncontrolled livestock remedies under this statute available to a wider range of individuals, particularly in areas experiencing urban expansion into rural areas. We have some technical observations to offer:

Line 11: The addition of "municipality" restricts the availability of this statute and limits the number of individuals outside populated areas who can utilize it.

Line 24: Eliminating the word resident could make creation of a controlled livestock district unduly difficult or impossible in instances where state land disposals have created large absentee owner situations. If retained, it would give a preference to the individuals who are living in an area and having to deal with a problem.

Please contact me or my staff if you have questions regarding this matter.

Sincerely,


Lennie Gorsuch
Commissioner

cc: Bill Sponsor
House Resources Committee Members
Bob Evans, Legislative Liaison
Office of the Governor
Denby Lloyd, Special Staff Assistant
Office of the Governor
Gary Gustafson, Director
Division of Land and Water Management

6-1776E
Bradley
2/20/90

BY REP. SWACKHAMMER, Navarre

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 387 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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11 establish a controlled livestock district within a municipality [CITY
12 OR ORGANIZED BOROUGH,] or in other settled areas of the state, as
13 provided in this chapter, to consist of [ONE OR MORE TOWNSHIPS OR
14 PORTIONS THEREOF OR OF] a contiguous area of not less than 1,280
15 acres. The owner and the person having custody and control of a
16 domestic animal may not knowingly permit the [IT IS UNLAWFUL FOR ANY]
17 domestic animal to graze or run at large within a controlled livestock
18 district [UNLESS THE DOMESTIC ANIMAL IS HERDED ON OPEN PUBLIC DOMAIN
19 AND TENDED BY A PERSON AND PREVENTED FROM GRAZING UPON PRIVATE ROADS
20 OR HIGHWAYS AND PRIVATELY OWNED LAND].

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24 (a) A controlled livestock district may be established [CREATED]
25 upon petition of not less than 60 percent of the resident owners and
26 lessees of the [CULTIVATED] land within the area to be included in the
27 district. The petition must [SHALL] contain a statement of its pur-
28 pose, [SHALL] define the boundaries of the area to be included within
29 the district, [SHALL] be signed by [THE REQUISITE] 60 percent of the

1 resident owners and lessees within the area described, and [SHALL] be
2 filed with the district judge for the district within which the land
3 is situated.

4 * Sec. 4. AS 03.35.020(c) is amended to read:

5 (c) A portion [PORTIONS] of a controlled livestock district may
6 be eliminated or a [AN ENTIRE] district may be dissolved [ABOLISHED OR
7 ELIMINATED] if 60 percent of the resident owners and lessees of the
8 [CULTIVATED] land within the district or the area affected petition
9 for the elimination or dissolution under [ABOLISHMENT, IN WHICH EVENT]
10 the procedure set out in this section for the establishment [FORMA-
11 TION] of a controlled livestock district [SHALL BE FOLLOWED FOR DISSO-
12 LUTION].

13 * Sec. 5. AS 03.35.030 is amended to read:

14 Sec. 03.35.030. NOTICE, HEARING, AND ORDER. Upon receipt of a
15 petition for the establishment, addition, elimination, or dissolution
16 of a controlled livestock district, the district judge shall set a
17 time for hearing the petition not less than 30 days after its receipt
18 [THEREAFTER]. Notice of the time and place of the hearing and its
19 purpose shall be posted in not less than three conspicuous public
20 places within the proposed district, including a post office, for a
21 period of at least 30 days before the hearing. If there is no post
22 office within the proposed district, then the notice shall be posted
23 in two conspicuous public places in the proposed district and in the
24 post office nearest the proposed district. If, at the hearing, the
25 district judge finds that the petition meets the requirements estab-
26 lished under AS 03.35.020 [IS SUFFICIENT] and that notice of the
27 hearing has been given, the district judge shall enter an order grant-
28 ing the request contained within the petition. The boundaries of the
29 district are those proposed within the petition [CREATING AND

1 ESTABLISHING THE CONTROLLED LIVESTOCK DISTRICT AND DESCRIBING ITS
 2 BOUNDARIES]. The district judge shall certify to the clerk of the
 3 superior court for the judicial district a copy of the findings and
 4 order. The district judge shall send a copy of the order to the
 5 commissioner of natural resources [DIRECTOR, DIVISION OF AGRICULTURE,
 6 DEPARTMENT OF NATURAL RESOURCES].

7 * Sec. 6. AS 03.35 is amended by adding a new section to read:

8 Sec. 03.35.035. IDENTIFICATION OF DOMESTIC ANIMALS WITHIN CON-
 9 TROLLED LIVESTOCK DISTRICT. (a) Within 60 days of the establishment
 10 of a controlled livestock district or of the addition to an estab-
 11 lished controlled livestock district under AS 03.35.010, the person
 12 having custody and control of domestic animals located within the
 13 district shall identify the animals under AS 03.40, use identification
 14 collars to indicate ownership, or otherwise use a reliable system for
 15 the identification of the ownership of the animal.

16 (b) A person who violates (a) of this section commits a viola-
 17 tion.

18 * Sec. 7. AS 03.35.040 is amended to read:

19 Sec. 03.35.040. LIABILITY FOR DAMAGES, AND LIEN. (a) The owner
 20 of land within a controlled livestock district, whether the land is
 21 fenced or unfenced, [(1)] is entitled to recover, from the owner or
 22 person having custody and control of a domestic animal, for any injury
 23 done by the animal [IT] when grazing or running at large within a
 24 controlled livestock district contrary to the provisions of this
 25 chapter, and [(2)] has a lien upon the domestic animal for the amount
 26 of the damage done.

27 (b) A [HOWEVER, NO] claim for damages may not exceed \$500 [IN
 28 EXCESS OF \$50 IS ALLOWED] against any one animal for any one trespass.
 29

H B

393



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Natural Resources	DIVISION Parks & Outdoor Recreation	BILL NUMBER	SPONSOR
DEPARTMENT POSITION Support			
PREPARED BY	DATE	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 2/22/90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL DNR - Division of Land & Water Management	CONSTITUENT GROUP(S) AFFECTED BY BILL Kenai River Special Management Area Advisory Board City of Kenai
ORGANIZATIONAL SUPPORT FOR BILL Kenai River Special Management Area Advisory Board City of Kenai	ORGANIZATIONAL OPPOSITION TO BILL None

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
The University of Alaska's expansion plans for its college campus at Kenai cannot go forward due to a limitation on physical area. Adjacent land within the Kenai Special Management Area is needed to expand the college campus.

ANALYSIS OF BILL/PROGRAM EFFECTS
Statutory authority is needed to remove land from the Kenai River Special Management Area (KRSMA). The University of Alaska owns property adjacent to the KRSMA at Slikok Creek. The University would exchange a portion of its property along Slikok Creek for access, recreation and habitat protection uses in exchange for state land within the Management Area which is more suitable for campus development/expansion of the Kenai College. The adjustment of management boundaries would meet the goals of the state and the University and the public interest.

AMENDMENTS PROPOSED
None

DK

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Land exchange between the II of A & DNR involving Kenai River Mgt. Area
Sponsor: Navarre Swackhammer
Requestor: _____

Agency Affected: Natural Resources
BRU: Land & Water Mgt.
Components: Land & Water Mgt.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	25.0					
TRAVEL	1.5					
CONTRACTUAL	5					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	27.0					

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	27.0					
FEDERAL FUNDS						
OTHER						
TOTAL	27.0					

POSITIONS:

FULL-TIME						
PART-TIME	1					
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) This fiscal note provides for 6 months of a Natural Resource Mgr. I (18) to complete the land exchange under AS 38.50. This includes negotiations, public hearings and notice and final conveyance.

Prepared by: Ron Swanson, Chief Land and Resources Phone: 762-2680
Division: Land and Water Management Date: February 15, 1990

Approved by Commissioner: *[Signature]* Date: _____
Agency: _____

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

FISCAL NOTE

REQUEST:

Revision Date: 1/8/90 Agency Affected: _____
 Title: An Act authorizing a land exchange BRU: _____
between University of AK and ADNR including the Kenai River Special Management Ar.
 Sponsor: Navarre/Swackhammer Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	0					

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0					

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS : (Attach a separate page if necessary)

No FY 90 impact

Prepared by: Frank Rue
 Division: Habitat

Phone: 465-4107
 Date: January 18, 1990

Approved by Commissioner: *Frank Rue*
 Agency: _____

Date: Jan 31 1990

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

Original sponsor(s): REP. NAVARRE, Swackhammer

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 393 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing a land exchange between the
7 University of Alaska and the Department of Natural
8 Resources involving the Kenai River Special Manage-
9 ment Area; and providing for an effective date."

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

11 * Section 1. (a) The commissioner of natural resources may exchange
12 under (b) and (c) of this section land within the Kenai River Special
13 Management Area for land owned by the University of Alaska. AS 38.50
14 applies to the transfer.

15 (b) The commissioner of natural resources may transfer to the Univer-
16 sity of Alaska land that is located within Township 5 North, Range 11 West,
17 Seward Meridian, Section 36: Tract A, Slikok Creek Alaska Subdivision.

18 (c) The land of the University of Alaska that may be transferred to
19 the commissioner of natural resources is land within Township 5 North,
20 Range 11 West, Seward Meridian, Section 36: S1/2NW1/4.

21 * Sec. 2. AS 41.21.502(a)(4)(H) is amended to read:

22 (H) Slikok Creek

23 Township 5 North, Range 11 West, Seward Meridian

24 Section 36: portions of S1/2NW1/4 and Tract

25 "A", Slikok Creek Alaska subdivision that are

26 not managed by the University of Alaska

27 * Sec. 3. Section 1 of this Act takes effect immediately under AS 01.-
28 10.070(c).

29 * Sec. 4. Section 2 of this Act takes effect on the first day of the

1 month that follows the certification by the commissioner of natural re-
2 sources to the lieutenant governor and the revisor of statutes that the
3 exchange has been completed under sec. 1 of this Act.
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Alaska State Legislature



Representative Mike Navarre

February 17, 1990

MEMORANDUM

TO: Representative Curt Menard, Co-Chair
Representative Cliff Davidson, Co-Chair
House Resources Committee

FROM: Rep. Mike Navarre

Subject: HB 393, "An Act authorizing a land exchange between the University of Alaska and the Department of Natural Resources involving the Kenai River Special Management Area."

Attached is a short justification summary for HB 393 and some back-up material from the Division of Parks and Outdoor Recreation, the University of Alaska, the City of Soldotna, and the Dept. of Fish and Game.

As noted in the Department of Fish and Game's analysis, the bill as written is open-ended, and thus would allow other unspecified land trades. I agree with that interpretation.

Therefore, I have also attached a work draft of a sponsor substitute that is the result of a coordinated effort between Div. of Parks and University personnel, Legislative Counsel, and my staff. The draft more narrowly defines the legal descriptions of the parcels to be exchanged, and eliminates the "open ended" problem with the original bill.

I would like to propose this draft to the committee as a "sponsor offered" committee substitute.

Thanks for your consideration.

Alaska State Legislature



Representative Mike Navarre

HB 393 - JUSTIFICATION SUMMARY

This measure would simply allow the exchange of lands managed by the University of Alaska, and lands managed by the DNR, Division of Parks and Outdoor Recreation, in the vicinity of the Kenai Peninsula College Campus and the Slikok Creek Recreation Area near Soldotna.

The exchange will meet the mutual objectives of the University (by allowing expansion of the Kenai Campus), the City of Soldotna (which will manage the upland portion of the lands along Slikok Creek), and the Division of Parks and Outdoor Recreation (which manages the Kenai River Special Management Area).

In short, the bill allows continued expansion of the Kenai Peninsula College Campus, at the same time promoting tourism development along Slikok Creek, a popular Soldotna area fishing stream.

I urge your favorable consideration of HB 393.

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

Rep. Mike Navarre

MN/pm

2/18/90 Rev. 1.0

Soldotna

177 North Birch • Soldotna, Alaska 99669 • Phone: 262-9107



August 10, 1989

Senator Paul Fischer
Box 784
Soldotna, Alaska 99669

Representative Mike Narvarre
Box 189
Kenai, Alaska 99669

Representative C. E. Swackhammer
312 Tyee Street
Soldotna, Alaska 99669

Re: Slikok Creek Recreation Area / University of Alaska Land Exchange

Gentlemen:

On behalf of the Soldotna City Council, I desire to inquire whether you would be willing to sponsor a bill which would authorize a land exchange between the University of Alaska and the Department of Natural Resource in the vicinity of the campus of the Kenai Peninsula College and the Slikok Creek Recreation Area.

A draft of the proposed legislation has been drafted by counsel for the University. The draft language and some background information pertaining to this topic is enclosed for your information and reference.

This land exchange would facilitate mutual objectives of the University, Soldotna and the Division of Parks and Outdoor Recreation, Department of Natural Resources. The City and the University have "officially" endorsed this proposal. DNR representatives appear to be "neutral" indicating to me that they will not oppose these proposals.

We would like to have this legislation introduced at the beginning of your second session so that it may be enacted in 1990. A companion appropriation of \$100,000 -- 50% to DNR and 50% to the City of Soldotna, would also be appreciated so that we may implement plans for the design and construction of a bridge over the mouth of Slikok Creek at the Kenai River, pedestrian boardwalks, pathways and other appropriate habitat preservation improvements in the critical habitat areas adjacent to the Kenai River and Slikok Creek.

If you require additional information, please just call me or John Dickinson at the University. I will be in Wrangell at 874 2381 on an interim manager assignment from August 14 to September 11. Thanks for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Underkofler".

Richard Underkofler
City Manager

cc: Sue Millington, Division of Parks and Outdoor Recreation, Box 1247, Soldotna, AK 99669
John Dickinson, University of Alaska, 910 Yukon Drive, Suite 211, Fairbanks, Alaska 99775



Statewide Office
(907) 474-7591

University of Alaska
Facilities Planning & Construction
Butrovich Building, Suite 211
910 Yukon Drive
Fairbanks, Alaska 99775-5280

REC'D MAY 8 1989

May 5, 1989

Richard Underkofler
City Manager
City of Soldotna
177 North Birch Street
Soldotna, Alaska 99669

Re: Recreation Access and Land Exchange Legislation

Dear Rich:

As discussed, I have had our counsel draft the enclosed proposed legislation, including background summary information and map work.

By copy of this letter to William Garry, I am requesting that he contact both of us if any of the enclosure causes his agency any concern. That way we can, as agreed, support this legislation on all fronts. I want to thank you again for your assistance in introducing this legislation and look forward to favorable action within the next year.

Sincerely,

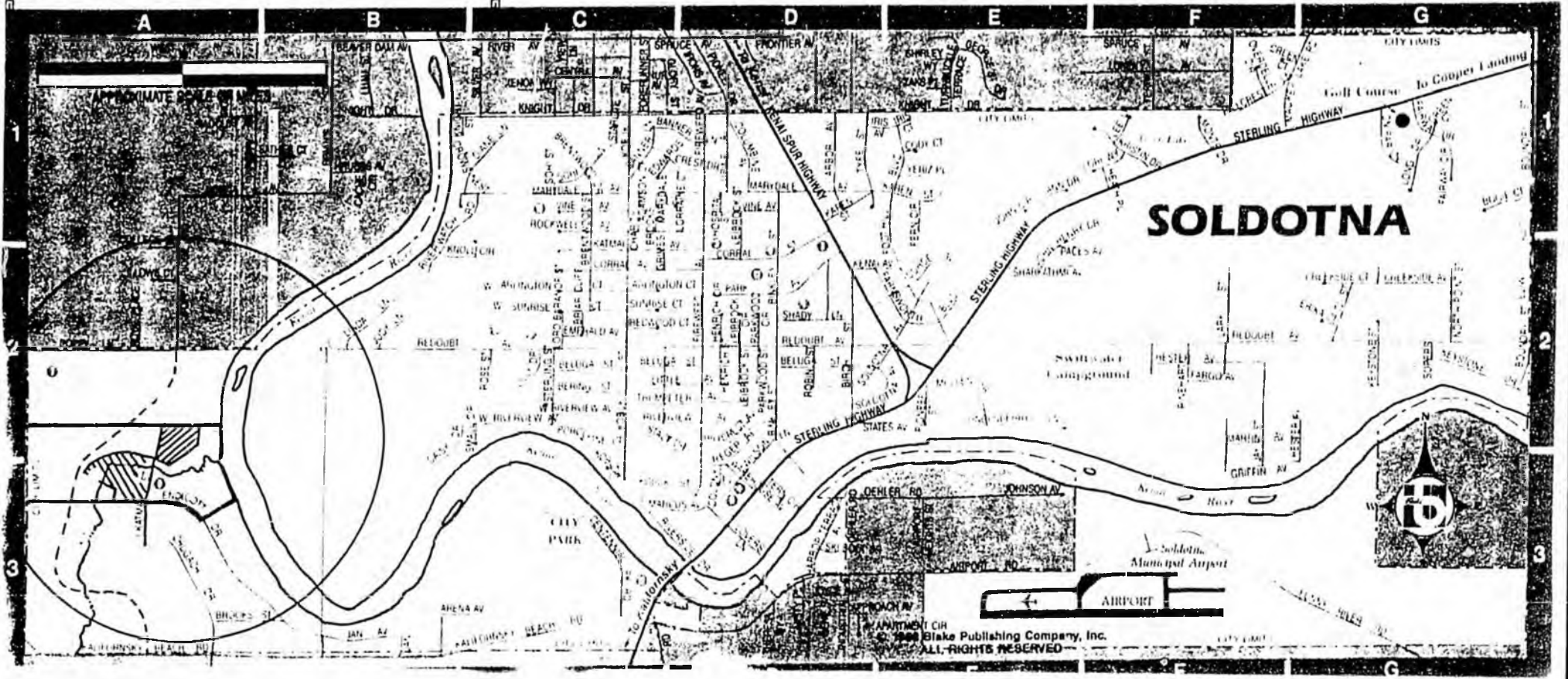
A handwritten signature in cursive script, appearing to read "John Dickinson".

John Dickinson, Manager
Educational Properties

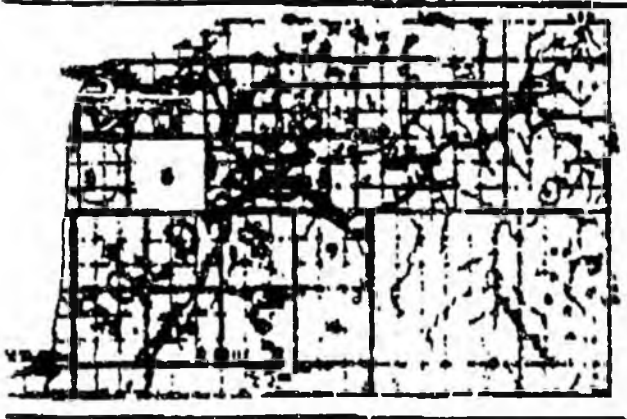
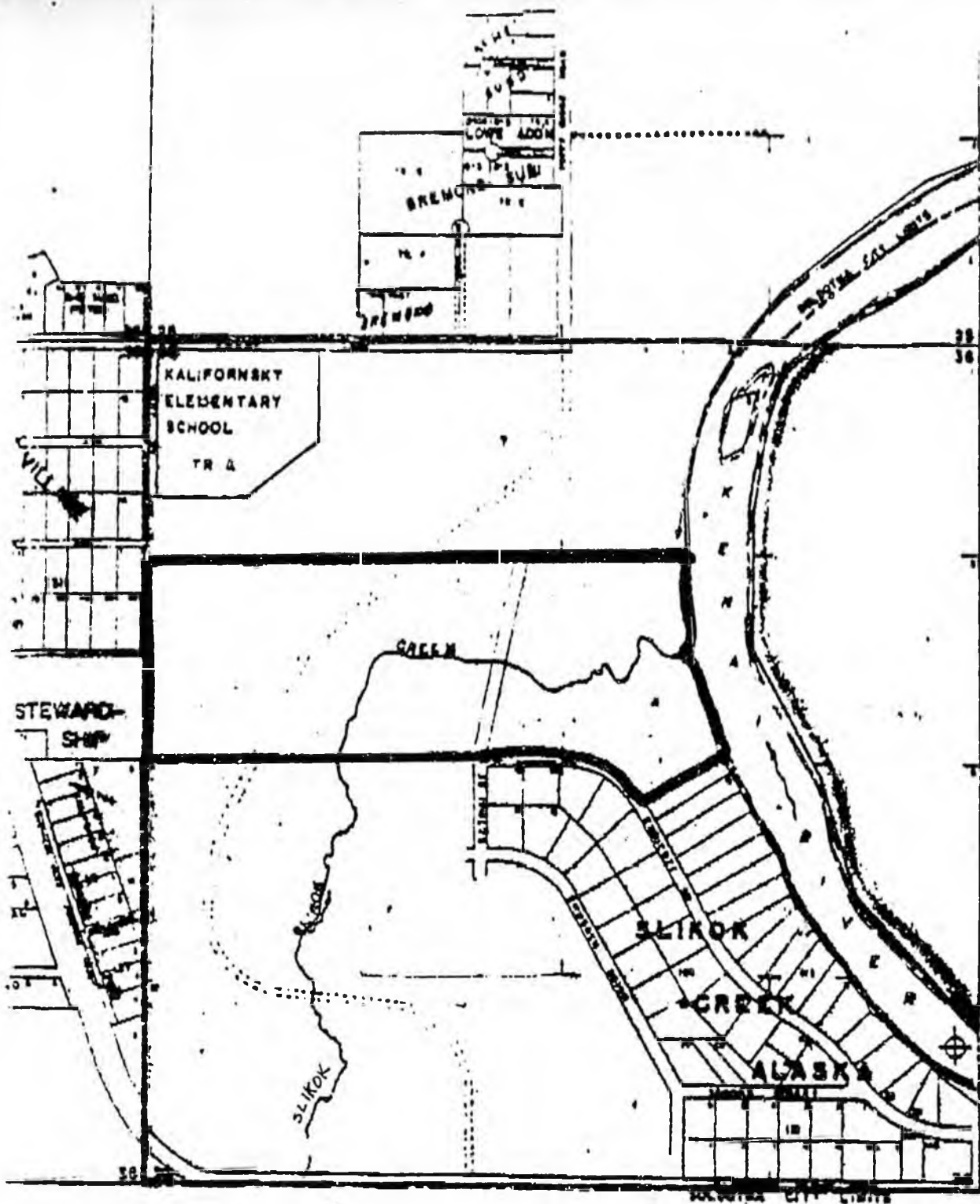
Encl: Draft of Proposed Legislation

cc: William W. Garry
John Wiles

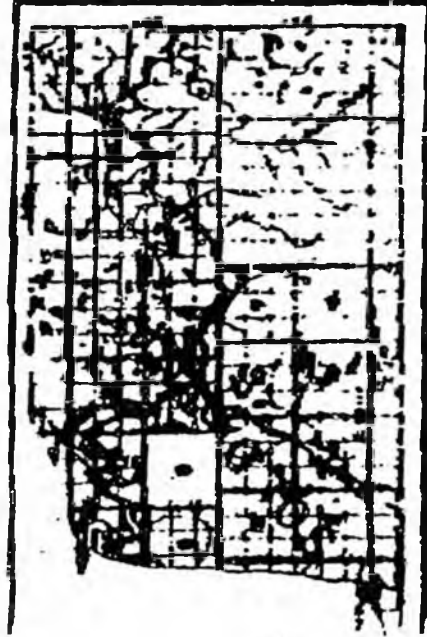
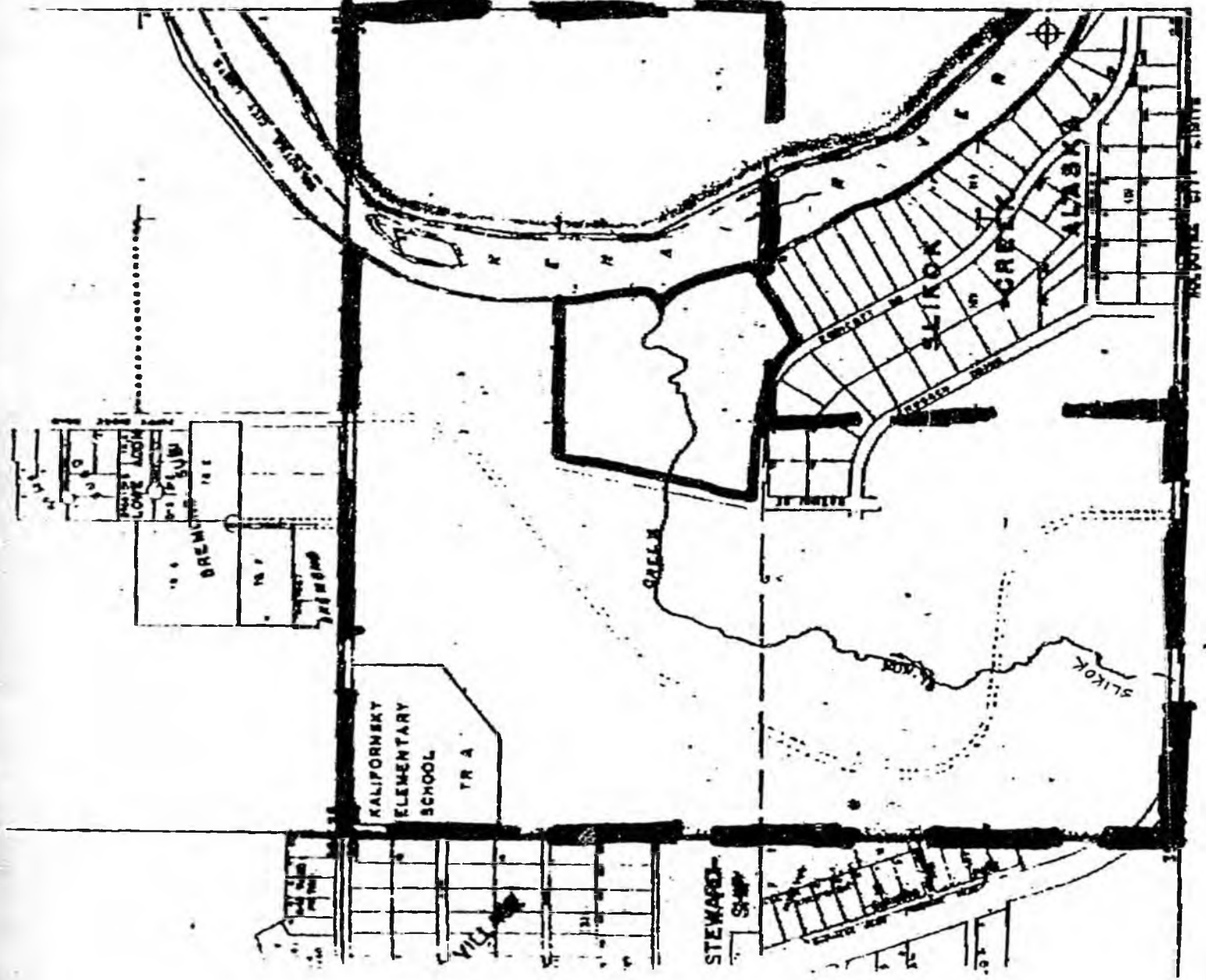
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SOLDOTNA



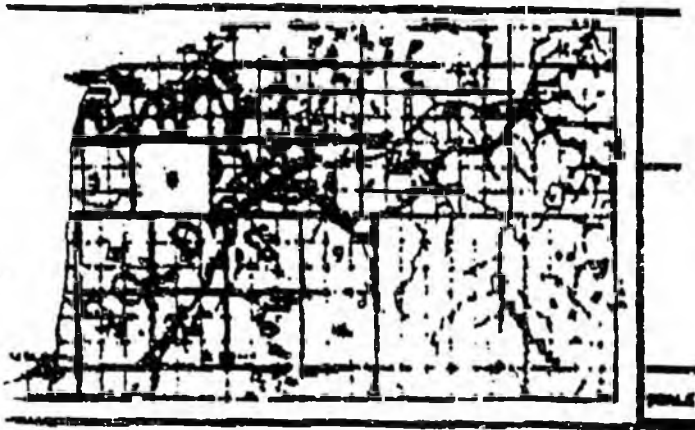
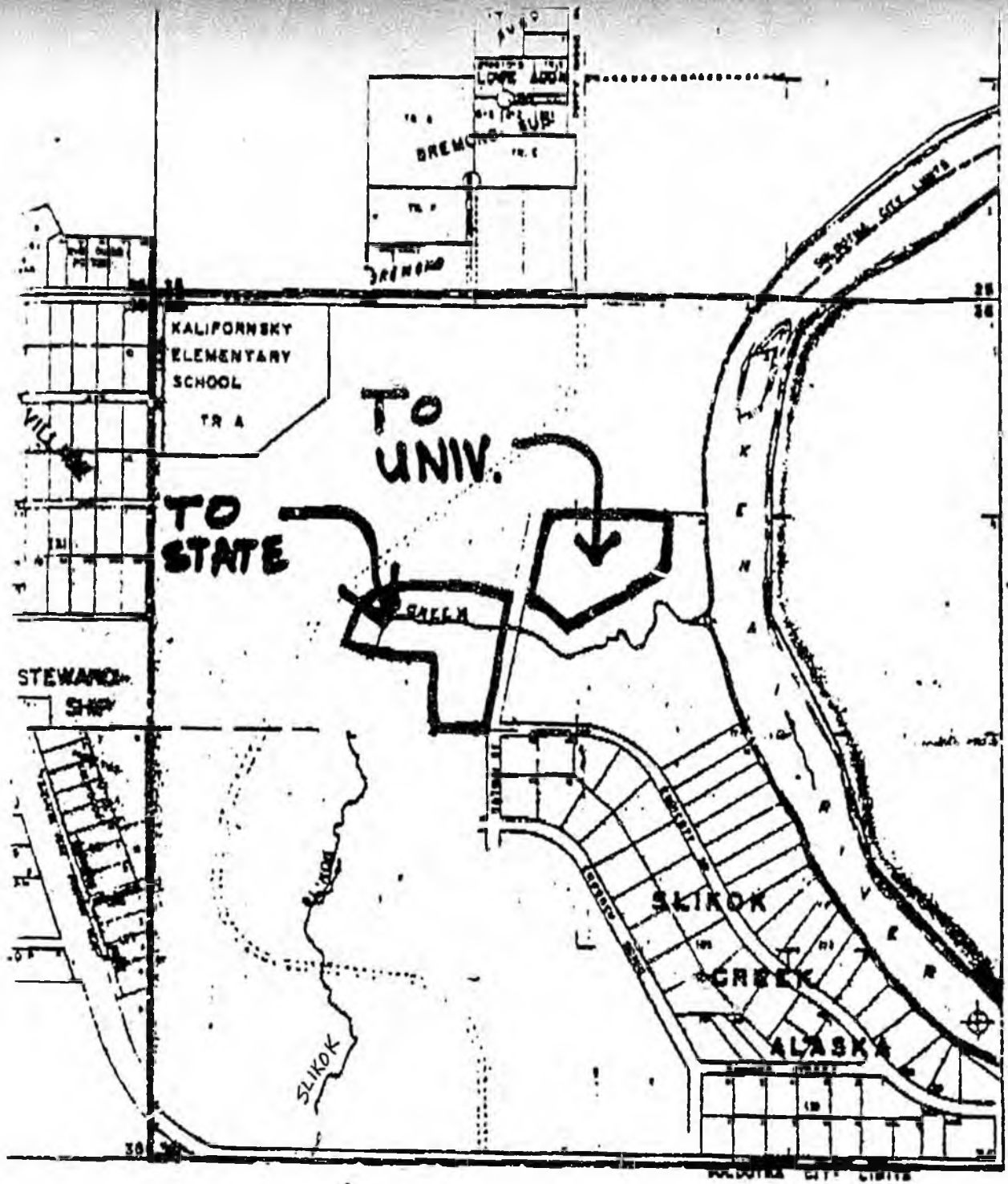
□ AREA WHERE
 NON-UNIVERSITY
 LANDS ARE PART
 OF KENAI RIVER
 SPECIAL MGMT.
 AREA



 LAND TO STATE
 FROM WITHIN

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 FROM WITHIN

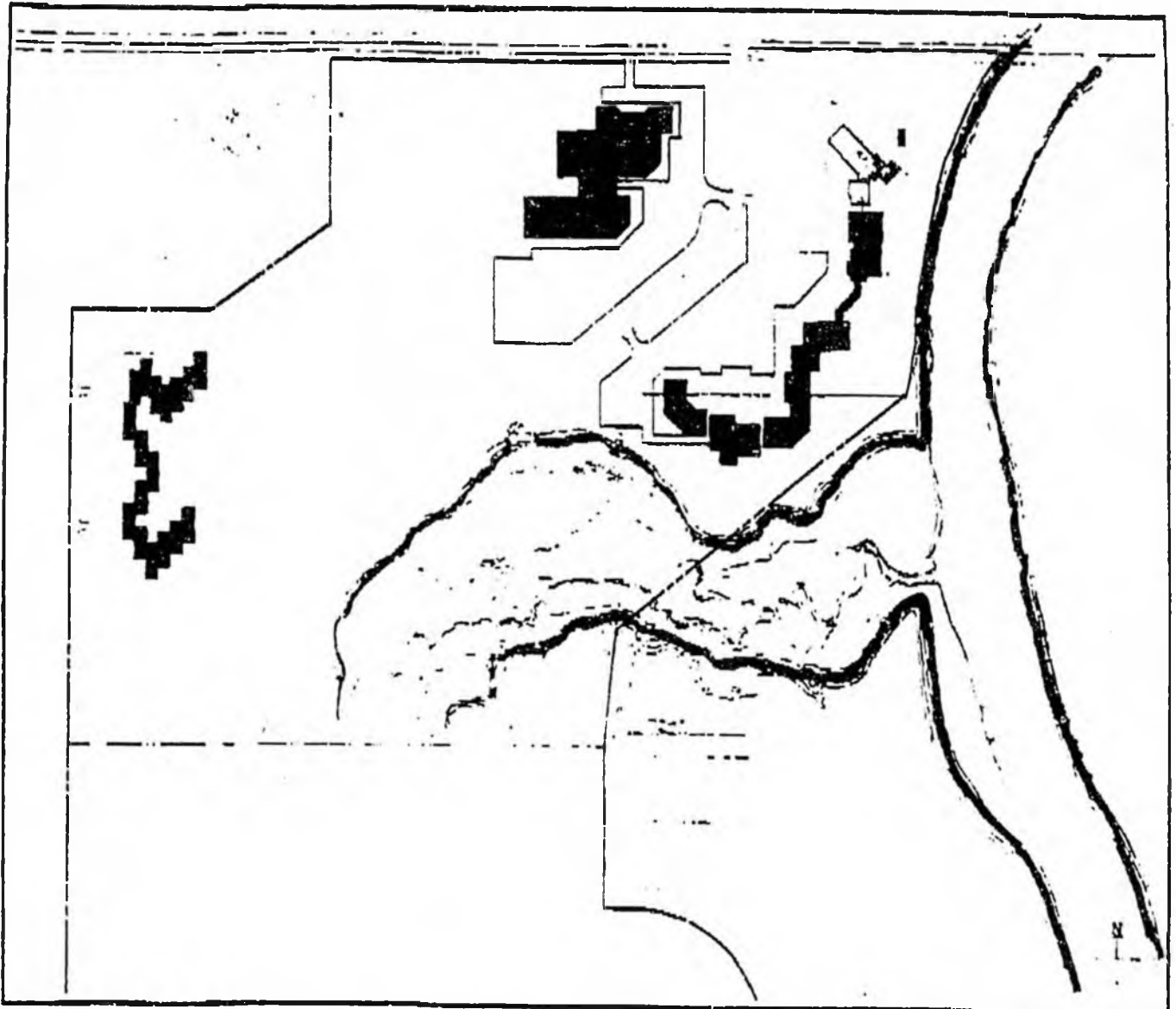
M D D 1



HYPOTHETICAL
 LAND EXCHANGE
 AT SLIKOK CR.

MAP 2

PROPOSED DEVELOPMENT III



KPCC MASTER PLAN

1986



UNIVERSITY OF ALASKA
FACILITIES PLANNING & CONSTRUCTION
ANCHORAGE, ALASKA

■ PROPOSED BLDG
▭ PROPOSED PARKING



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER HB393	SPONSOR Navarra/Svackhammer
SHORT TITLE OF BILL Land exchange between U of A and ADNR Kenai River Special Management Area			
DEPARTMENT POSITION Opposed to the bill, as written			
PREPARED BY Frank Rue <i>Frank Rue</i>	DATE 1/29/90	COMMISSIONER'S SIGNATURE <i>Arthur D. Delaney</i>	DATE 1/31/90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL City of Soldotna	CONSTITUENT GROUP(S) AFFECTED BY BILL Kenai River Users
ORGANIZATIONAL SUPPORT FOR BILL Unknown	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT This bill is intended to allow a trade of uplands administered by the Division of Parks and Outdoors Recreation near the University Campus at Soldotna for uplands and wetlands owned by the University near Slikok Creek. The wetlands near the creek will be protected by Parks, and uplands near the creek will be managed as a campground by the City of Soldotna under a cooperative agreement.

ANALYSIS OF BILL PROGRAM EFFECTS

The bill, as written, is open-ended and would allow other unspecified land trades. The department is not opposed to the specific trade intended.

AMENDMENTS PROPOSED

Rewrite the bill to allow only the specific land trade intended.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

FISCAL NOTE

REQUEST:

Revision Date: 1/8/90 Agency Affected: _____
 Title: An Act authorizing a land exchange BRU: _____
between University of AK and ADNIR including the Kenai River special management Ar
 Sponsor: Navarre/Swackhammer Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	0					

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0					

POSITIONS:

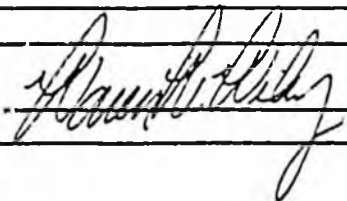
FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS : (Attach a separate page if necessary)

No FY 90 impact

Prepared by: Frank Rue
 Division: Habitat

Phone: 465-4107
 Date: January 18, 1990

Approved by Commissioner: 
 Agency: _____

Date: Jan 31 1990

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

6-1842E
Bradley
2/7/90

BY REP. NAVARRE, Swackhammer

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 393

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing a land exchange between the
7 University of Alaska and the Department of Natural
8 Resources involving the Kenai River Special Manage-
9 ment Area; and providing for an effective date."

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

11 * Section 1. (a) The commissioner of natural resources may exchange
12 under (b) and (c) of this section land within the Kenai River Special
13 Management Area for land owned by the University of Alaska. AS 38.50
14 applies to the transfer.

15 (b) The commissioner of natural resources may transfer to the Univer-
16 sity of Alaska land that is located within Township 5 North, Range 11 West,
17 Seward Meridian, Section 36: Tract A, Slikok Creek Alaska Subdivision.

18 (c) The land of the University of Alaska that may be transferred to
19 the commissioner of natural resources is land within Township 5 North,
20 Range 11 West, Seward Meridian, Section 36: S1/2NW1/4.

21 * Sec. 2. AS 41.21.502(a)(4)(H) is amended to read:

22 (H) Slikok Creek

23 Township 5 North, Range 11 West, Seward Meridian

24 Section 36: portions of S1/2NW1/4 and Tract

25 "A", Slikok Creek Alaska subdivision that are

26 not managed by the University of Alaska

27 * Sec. 3. Section 1 of this Act takes effect immediately under AS 01.-
28 10.070(c).

29 * Sec. 4. Section 2 of this Act takes effect on the first day of the

1 month that follows the certification by the commissioner of natural re-
2 sources to the lieutenant governor and the revisor of statutes that the
3 exchange has been completed under sec. 1 of this Act.
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HB

394

HOUSE COMMITTEE REPORT

1/12

(9)

Date Referred: January 8, 1990

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 1/11/90

The RESOURCES Committee considered:

HB 394

HOUSE BILL NO. 394

PROHIBITING WASTE OF POLLOCK

"An Act relating to utilization of pollock."

RECOMMENDATIONS:

- be replaced with CS HB 394 (RES) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note 7+6
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

SIGNING <u>DO</u> PASS	SIGNING	Do Not Pass	No Rec	Amend
<u>Cliff Davidson</u> DAVIDSON	<u>W. Furness</u> FURNACE		*	
<u>Sam Menard</u> MENARD				
<u>Bill Hudson</u> HUDSON				
<u>Ben Sharp</u> SHARP				
<u>Steve Jacko</u> JACKO				
<u>Mike Navarre</u> NAVARRE				
<u>Richard Foster</u> FOSTER				

Cliff Davidson

Chairman's Signature



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Commercial Fisheries	BILL NUMBER HB 394	SPONSOR Davidson
-----------------------------	----------------------------------	-----------------------	---------------------

SHORT TITLE OF BILL
Utilization of Pollock

DEPARTMENT POSITION
Support

PREPARED BY Earl Krygier	DATE 01/10/90	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 1/11/90
-----------------------------	------------------	--	-----------------

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Public Safety	CONSTITUENT GROUP(S) AFFECTED BY BILL Commercial fishermen and fish processors
--	---

ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL
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FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
This bill, in conjunction with federal fisheries management regulations recently passed by the North Pacific Fisheries Management Council (NPFMC), is intended to address the problem of pollock roe stripping which occurred in the Gulf of Alaska during the 1989 season. The pollock fishery is managed with a strict quota. In 1989, large factory trawlers moved into the Kodiak area during the pollock spawning season and quickly consumed all remaining quota by stripping the high value roe and discarding the males and the usable flesh of the roe-stripped females. As a result, local fishermen and shore-based processors were left

ANALYSIS OF BILL/PROGRAM EFFECTS Without access to a harvestable surplus.

The effect of this bill would be to prohibit roe stripping in state waters and at shore-based processing facilities. This action, in conjunction with a similar federal regulation governing federal waters, would eliminate pollock roe stripping in all catching and processing sectors of the industry.

AMENDMENTS PROPOSED

STATE OF ALASKA
990 LEGISLATIVE SESSION

BILL VERSION: HB 394
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Utilization of Pollock

Agency Affected: Fish and Game
BRU: Commercial Fisheries

Sponsor: Davidson
Requestor: Governor

Components: ATI

PENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
COMMODITIES	0					
EQUIPMENT	0					
FIXED ASSETS & STRUCTURES	0					
GRANTS, CLAIMS	0					
OTHER	0					
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

ADDITIONAL FUNDING: (Thousands of Dollars)

GENERAL FUND						
OTHER FUND						
TOTAL	0	0	0	0	0	0

ASSUMPTIONS:

TIME	0	0	0	0	0	0
TIME	0	0	0	0	0	0
PERMANENT	0	0	0	0	0	0

NOTES: (Attach a separate page if necessary)

by: Bob Clasby
Commercial Fisheries

Phone: 465-4210
Date: 01/10/90

by Commissioner: [Signature]

Date: 1/11/90

Prepared by: _____
Director of Finance
or
Director of Management and Budget
State Agency(ies)



STATE OF ALASKA
HOUSE OF REPRESENTATIVES
Box V, Juneau, Alaska 99811
(907) 465-2487 • 465-2498

REPRESENTATIVE CLIFF DAVIDSON • DISTRICT 27 • Box 746, Kodiak, Alaska 99615 • (907) 486-8250

TO: Distribution
FROM: Jay Nelson *Jay Nelson*
Staff to Representative Cliff Davidson
DATE: December 18, 1989
SUBJECT: Proposed pollock roe stripping legislation

As most of you are aware, it was pointed out at the last NPFMC meeting that the emergency rule prohibiting roe stripping would have no effect on shore-based roe stripping operations. The Council discussed the possibility of state legislation to compliment the Council's roe stripping emergency rule.

Attached is proposed pollock roe stripping legislation drafted for Representative Davidson. The legislation would prohibit pollock roe stripping in Alaska. Please review the proposed legislation for both the concept and the specifics. (For example, perhaps a generalized prohibition on roe stripping of all fish species would be preferable in order to eliminate future problems in other fisheries.)

I will be in Anchorage only through Tuesday, December 19th (561-4962, FAX 562-4376). Any comments sent after that time would be better sent to our Juneau office, (465-3715, FAX 463-5661). I will be in the Juneau office on January 3rd. It is Representative Davidson's intent to prefile the legislation by January 5th absent any unforeseen problems. Senator Zharoff will also be considering the possibility of introducing this in the Senate.

Thank you for your assistance.

cc: Chris Blackburn Henry Mitchell
Tim Blott Larry Nicholson
Larry Cotter Karl Ohls
Demming Cowles Clarence Pautzke
Oscar Dyson John Sevier
L. John Iani Jeff Stephan
Earl Krygier Dave Woodruff
Ric Lauber

Joe Plesha

Denby Lloyd

Cliff Davidson



PACIFIC ASSOCIATES

December 18, 1989

From: Larry Cotter 
Re: Proposed Pollock Roe Stripping Legislation

Thanks very much for sending me a copy of the draft legislation. I think it is very important that legislation such as this be passed as quickly as possible. The Secretary of Commerce will soon be in the process of determining whether or not to implement the North Pacific Council's emergency prohibition on roe stripping: action, or lack thereof, by the state could have an important impact on that decision.

With one exception, I think the draft is fine. That exception is the definition of "waste". The definition allows pollock flesh to be reduced to meal as an acceptable form of processing. I would prefer that reduction of flesh to meal be allowed only in the event the flesh is damaged or otherwise unfit or unmarketable for fillets or surimi.

The definition of processing is one the Council is grappling with and will deal with at the April meeting. It is a significant definition since some mothership and factory trawlers have meal plants on board and could more rapidly process the flesh into meal than into fillets or surimi. The result would be a waste of food protein and an increase in the speed with which the pollock quota is taken.

I would suggest language similar to the following:

(3) "waste" means the failure to use the flesh of commercially taken pollock for human consumption OR SCIENTIFIC OR EDUCATIONAL PURPOSES, ALTHOUGH reduction to meal AND production of food for domestic animals or fish, ~~or scientific or educational purposes~~; IS ALLOWED IN THE EVENT THE FLESH IS DAMAGED OR OTHERWISE UNFIT OR UNMARKETABLE FOR FILLETS, SURIMI OR OTHER COMMERCIAL FOOD PRODUCTS FOR HUMAN CONSUMPTION. "WASTE" ~~but~~ does not include normal, inadvertent loss of flesh associated with processing that cannot be prevented by practical means.

I hope this is helpful to you. Please contact me if you have any questions. I would be more than happy to testify at any hearing on this bill, and otherwise work for its adoption.

6-1871J
Bradley
1/11/90

Original sponsor(s): SEN. FRANK, Kelly, Coghill, Sturgulewski, Uehling, Pearce, Faiks, Zharoff, Fahrenkamp, Jones, Fischer, Binkley, Adams, Halford, Szymanski, Duncan, Rodey, Pourchot

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE JOINT RESOLUTION NO. 54 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Opposing the "no net loss of wetlands"
6 policy of the United States Army Corps
7 of Engineers and the United States
8 Environmental Protection Agency.

9 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 WHEREAS the Domestic Policy Council, the United States Environmental
11 Protection Agency, the United States Army Corps of Engineers, the United
12 States Fish and Wildlife Service, and other federal agencies are advancing
13 a new wetlands policy for the nation; and

14 WHEREAS the November 15, 1989, Memorandum of Agreement between the
15 United States Corps of Engineers and the United States Environmental Pro-
16 tection Agency fails to distinguish Alaska's fundamentally different wet-
17 lands from those of the other states; and

18 WHEREAS the "no net loss" policy stems from the 54 percent wetlands
19 loss in the continental United States; and

20 WHEREAS the definition of wetlands has expanded significantly since
21 the Clean Water Act was originally implemented; and

22 WHEREAS Alaska has land characteristics that are unique to the state
23 and require special consideration in a wetlands policy for the nation; and

24 WHEREAS 88 percent of the total land mass of the state is owned by the
25 federal and state government, and the state presently does an outstanding
26 job in protecting and preserving highly valued wetlands; and

27 WHEREAS under the existing definition of wetlands, up to 170,000,000
28 acres of Alaska are wetlands in contrast to the other states where only a
29 small percentage of the area is wetlands; and

1 WHEREAS the "no net loss wetlands" policy fails to recognize the
2 unique nature of permafrost in the state as well as the vast areas of the
3 state that cannot be developed; and

4 WHEREAS the subjection of the state to a "no net loss" policy con-
5 ceived without an understanding of Alaska's unique characteristics would
6 prevent the reasonable, responsible, and appropriate development of wet-
7 lands in Alaska; and

8 WHEREAS the future development and extraction of Alaska's natural
9 resources and diversification of the state's economy would be deleteriously
10 affected by subjection to a "no net loss" policy that did not consider
11 Alaska's unique circumstances; and

12 WHEREAS the wetland areas of the state cover up to 170,000,000 acres
13 and only 80,000 acres, approximately 0.05 percent of the wetlands, have
14 been altered since 1867;

15 BE IT RESOLVED by the Alaska State Legislature that George Bush,
16 President of the United States, is respectfully requested to rescind the
17 application to the state of the wetlands Memorandum of Agreement; and be it

18 FURTHER RESOLVED that the Alaska State Legislature urges the President
19 of the United States to determine that application of a "no net loss"
20 policy to wetlands in Alaska that does not consider Alaska's unique circum-
21 stances would not be in the best interest of the state or nation; and be it

22 FURTHER RESOLVED that the President direct federal agencies to account
23 for the unique circumstances and needs of the State of Alaska in developing
24 and implementing national wetlands policy; and be it

25 FURTHER RESOLVED that the President direct the White House Domestic
26 Policy Council to propose a wetlands conservation strategy that recognizes
27 the role of the states and provides resources for them to plan wetlands
28 conservation strategies, allows for regional diversity, allows the national
29 goal to be pursued through individual state wetlands management programs,

1 and provides flexible approaches that recognize the uniqueness of Alaskan
2 wetlands.

3 COPIES of this resolution shall be sent to the Honorable George Bush,
4 President of the United States; Lieutenant General Henry J. Hatch, Chief of
5 Engineers, Commanding General, U.S. Army Corps of Engineers; William K.
6 Reilly, Administrator, U.S. Environmental Protection Agency; and to the
7 Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and
8 the Honorable Don Young, U.S. Representative, members of the Alaska delega-
9 tion in Congress.

H B

400

(9)

Date Referred: January 8, 1990

FURTHER REFERRALS: FINANCE

Date of Committee Action: 2/8/90

The RESOURCES Committee considered:

HB 400

HOUSE BILL NO. 400

FISHERIES BUSINESS TAX AND LICENSE

"An Act relating to the fisheries business tax and license, and to persons subject to the tax and the licensure requirement; establishing civil penalties for failure to obtain a fisheries business license; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
- [] _____ [] a new title
- [] have attached amendment(s)
- [X] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [] fiscal impact _____
- [] zero fiscal note _____
- [] zero with analysis _____

- [X] fiscal note(s) 1/8/90 Dept of Revenue
- [] zero fiscal note(s) _____
- [] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not Pass No Rec Amend

Cliff Davidson

SIGNING: (Check approp. column)	Do Not Pass	No Rec	Amend
<i>Cliff Davidson</i>		X	

Cliff Davidson
Chairman's Signature

STATE OF ALASKA
1990 LEGISLATIVE SESSION

No. 1

BILL VERSION: HB 400

PUBLISH DATE: HOUSE 1/8/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Civil penalties for failure
to obtain fisheries business license
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	500.0	500.0	500.0	500.0	500.0	500.0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: See Attached:

Prepared By: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320
Division: Income and Excise Audit Date: December 5, 1989

Approved by Commissioner: Hugh Malone *Hugh Malone* Date: December 5, 1989
Agency: Department of Revenue

Distribution (by preparer):

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

Law Log #0015
Analysis
Prepared by:
Steven E. Kettel
Director
Income and Excise Audit Division

Analysis

Failure to obtain a license prior to processing will trigger a monetary penalty scheme under the proposal. The penalties escalate as subsequent violations occur. The bill will create civil penalties for processing fish without a license. This will make it much easier for the Department to enforce the law, and will give the Department the leverage it needs to obtain fisheries business license applications and tax prepayments from fish processing companies.

This legislation was recommended by the legislative audit completed on June 9, 1989. Recommendation No. 5 stated that the Department of Revenue should seek legislation for more stringent penalties for operating a fisheries business without a fisheries business license.

Revenue Impact

We cannot anticipate the number of processors that will fail to obtain proper licensing and consequently be penalized. We do believe that voluntary compliance, especially among floating processors, will improve dramatically and increase tax collections by \$500,000 - \$1 million.

Alaska MUNICIPAL League




TELEPHONE
(907) 586-1325
FAX 463-5480

217 SECOND STREET, SUITE 200
JUNEAU, ALASKA 99801

February 8, 1990

MEMORANDUM

TO: Representative Cliff Davidson, Co-Chairman
 Representative Curt Menard, Co-Chairman
 Members of the House Resources Committee

FROM: Scott A. Burgess, Executive Director 

SUBJECT: HB 400 - Relating to fisheries business tax and license

The Alaska Municipal League supports HB 400. The Alaska Municipal League's 1990 Municipal Platform (relevant excerpt attached) includes support for the continuation of the Fisheries Business Tax Program (AS 43.75) and "urges the Legislature and the state administration to take all necessary steps to strengthen the reporting and collection efforts of the Fisheries Business Tax Program to ensure equitable operation of the program and maximum return to Alaska's municipalities" and to the State.

HB 400 expands the authority of the Department of Revenue to assess fines against persons who are required to have a fisheries business license under AS 43.75.011 but fail to obtain the license. The AML supports HB 400 and urges its passage as one way to improve enforcement of the program for equity and maximum return.

The AML would like to work with the Committee on any other ways to improve enforcement and collections under the Fisheries Business Tax Program, HB 33 - Extending the Fisheries Business Tax Credit Program, and on legislation to share fisheries business tax revenues from the off-shore processors (see additional attached excerpt from AML's Platform). Thank you.

Attachments

Fisheries Business Tax Program

The Alaska Municipal League urges the Legislature and state administration to take all necessary steps to strengthen the reporting and collection efforts of the Fisheries Business Tax Program to ensure equitable operation of the program and maximum return to Alaska's municipalities. The League supports continuation of the Fisheries Business Tax Program established by AS 43.75, including the provision that 50 percent of the revenues generated from the tax are to be shared with municipalities.

AS 43.75.015 establishes the Fisheries Business Tax (commonly referred to as the "raw fish tax") Program, which is administered by the Department of Revenue. Each fisheries business, i.e., processor, operating within the State, whether off shore or on shore, is liable for these taxes, which are levied at different rates depending on the nature of the processing involved (AS 43.75.015).

By statute (AS 43.75.130), 50 percent of the total tax liability under the program from processors operating within an incorporated municipality is refunded to the local government (city, borough, or a portion to each for processing that occurred in a city within a borough). The payments to local governments under this program, which are intended to compensate for the additional costs of providing government services to fisheries businesses, constitute a major portion of the annual budget in some municipalities. In FY 89, for example, 53 municipalities received over \$15.7 million, with shares ranging from as little as \$52.50 (Mekoryuk) to over \$1.7 million (Bristol Bay Borough and Kodiak Island Borough). The \$1.7 million received by the Kodiak Island Borough represented 27 percent of its total budget for the year.

AS 43.75.032, which was enacted in 1986 and remains in effect until January 1, 1992, allows processors a tax credit for up to 50 percent of capital expenditures made to increase product diversity or quality, promote production efficiency and capacity, or contribute to the development of a cooperative seafood industrial park. The statute allows this credit for a maximum of three consecutive years, which must begin in tax years 1987 through 1989.

Tax credits granted are deducted from the balance of the total taxes due after the municipalities' shares are distributed, which includes revenues from all processors operating outside municipal boundaries as well as 50 percent of what is due from those operating inside municipalities. Municipalities may choose to grant an additional tax credit to be deducted from their share of the revenue. The table below compares total net revenue (minus the tax credit) and the amount distributed to municipalities. It does not include information on the total tax liability, nor the amount of tax credit granted. Net revenue to the State has dropped during the past few years because of the formation of a new municipality, the Aleutians East Borough, in 1987 and because of the tax credit program. The net revenue projections for FY 1990 and FY 1991 are the mid-case scenario of the Department of Revenue.

Table 9. Fisheries Business Tax Shared Revenue Program

Fiscal Year	Total Net Revenue to State ^a	Payments to Municipalities
1985	\$18,695,205	\$6,503,103
1986	21,129,128	6,773,558
1987	27,025,050	8,076,553 ^b
1988	22,675,575	8,050,024 ^c
1989	26,759,425	15,721,755 ^d
1990	22,400,000 ^e	15,626,200 ^e
1991	23,000,000 ^e	18,000,000 ^e

^a Total revenue figures available from the Department of Revenue for these years are net of tax credits granted to processors.

^b FY 87 distribution was \$8,076,553, of which \$116,553 was for prior year prepayments encumbered in FY 86 but not eligible for distribution until FY 87. This amount was \$600,001 less than the amount earned because of an appropriation shortfall.

^c Plus \$600,001 in a supplemental appropriation for FY 87.

^d Plus \$3,411,196 in a supplemental appropriation for FY 88.

^e Estimated

Source: Alaska Department of Revenue

From the municipalities' point of view, there are two types of threats to this program, which is so important to Alaska's coastal communities: (1) inadequate administration of the program, which leads to a breakdown in collection, reporting, and enforcement operations and, thus, a lower rate of tax collection than should be expected, and (2) a change in the distribution formula.

Of great concern to the League and its members is improvement of the program's reporting, enforcement, and collection efforts. Any breakdown in the administration of the program results in lower revenues for both the State and local governments. In 1988, legislation was passed to allow the Department of Revenue to share fisheries business tax return information with municipal officials to help both parties determine whether, in fact, processing activity is being reported accurately. However, the department's administration of the program has some serious problems that are blocking fair, equitable, and accurate collection and distribution of fisheries business taxes due.

The Division of Legislative Audit recently completed an audit of the program ("A Special Report on the Department of Revenue Income and Excise Audit Division Fisheries Business Tax Program," June 9, 1989). That report suggests several changes that would improve the operation of the program, including better accounting practices, automation of record keeping, and expanded audit efforts to verify information reported and to identify unlicensed processors.

The League supports the implementation of these suggestions and other methods to improve the collection and reporting activities of the program. This support includes support for funding necessary to automate the record keeping system for the fisheries

business tax program and to increase the audit staff to the level necessary to administer the program in an equitable manner.

Also of concern are attempts to change the distribution formula. During the 1989 legislative session, one suggestion for dealing with the State's anticipated revenue shortfall was to change the statutorily defined distribution formula from a 50 percent State/50 percent local share to 70 percent State/30 percent local share. This change, which would have amounted to a 40 percent reduction in the amount received by local governments, would have been disastrous, particularly to communities that are dependent on this revenue source.

The League opposes any efforts to reduce the local governments' share of this tax. In addition, the League favors distribution of 50 percent of the revenue derived from processors located outside municipal boundaries to impacted municipalities; these funds currently remain in the state general fund (see "Fiscal Stability Measures" item above). The League also supports extension of the tax credit program and application of the tax credit to cooperative or municipal utility construction related to onshore fisheries development.

The Alaska Municipal League supports establishment of a program to share fisheries business tax proceeds from offshore processors with affected municipalities to mitigate the impacts of the fisheries on the provision of local services.

Coastal municipalities must provide additional governmental services because of the impact of seafood processors, both within and outside municipal boundaries. It is important that tax receipts from all types of processors be shared with the municipalities affected by their operations.

Under the provisions of AS 43.75, Fisheries Taxes, all processors must pay a fisheries business tax to the State. Only the portion of the tax collected as a result of processing activity that takes place within municipal boundaries is shared with municipalities. This is intended to help offset the demands on local services resulting from the influx of people, demand for utilities, increased use of health facilities, additional call for law enforcement, and other impacts that result from the fish harvesting and processing activities. The formula for distribution of these tax revenues is based on the revenue generated from fisheries business operations occurring within municipal boundaries. The municipalities get 50 percent, and the State retains 50 percent. Shared fisheries tax revenues are a substantial source of revenue for many local governments: in FY 89, for example, 53 municipalities received over \$15.7 million, with shares ranging from as little as \$52.50 to over \$1.7 million (Bristol Bay Borough and Kodiak Island Borough).

Current statutes provide that the revenue generated from fish processing plants located outside municipal boundaries goes entirely to the State and is not shared with local governments, in spite of the fact that the activities of these processors do impact local governments. Many municipalities have to provide additional services as a result of offshore processing operations outside their borders, for instance health services, garbage hauling, and expanded law enforcement activities. These impacts can be significant to municipalities and their taxpayers, especially in proportion to the level of service provided to their permanent municipal population. However, the State, which does not provide services at the local level, receives the tax receipts from the processors operating outside municipal boundaries.

In FY 1989, the total tax liability of processors was \$41.3 million. Of this, \$31.4 million was attributable to processing activity that took place within municipal boundaries (resulting in a \$15.7 million distribution to municipalities). The balance, \$9.9 million, was attributable to processors operating outside municipalities and

was retained by the State. If this had been shared 50/50 with affected municipalities, local governments would have received up to \$4.95 million to help mitigate the additional costs of providing services to processors and their employees.

The League supports a program that would share the fisheries business tax revenues generated from processors located outside municipal boundaries with those communities that can demonstrate an effect on municipal operations resulting from the processors' activities. During FY 86, the Department of Community and Regional Affairs conducted a pilot project to allocate revenues from offshore processing activities to municipalities, and legislation (HB 314/SB 454) was introduced in 1988 that would have made such a program permanent. The impact of offshore processors on local government operation is, if anything, increasing, and municipalities, which must provide services to such processors, should be given a share of the revenue received by the State from them.

HB

409

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 10, 1990

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 2/7/90

The RESOURCES Committee considered:

HB 409

HOUSE BILL NO. 409

DEC ADMINISTRATIVE PENALTIES

"An Act relating to the reform of certain environmental conservation laws and the penalties for their violation."

RECOMMENDATIONS:

- be replaced with CS HB 409 (RES) the same title
- a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact DEC
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Mike Havane w/amendments
Mike Jones
Carol Williams
George Janley

	Do Not Pass	No Rec	Amend
<u>Chris Davison</u>		↓	
<u>[Signature]</u>	✓		
<u>Bob Myers</u>	✓		
<u>Richard [Signature]</u>	X		
<u>[Signature]</u>		X	
<u>Bill Hudson</u>	X		without Amendment

Chris Davison
Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to Environmental Law Reform
Sponsor: Representative Mike Davis
Requestor: House Resources

Agency Affected: Environmental Conservation
BRU: Environmental Quality Administrative Services
Components: Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	112.0	112.0	112.0	112.0	112.0	112.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	20.0	20.0	20.0	20.0	20.0	20.0
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	10.0	10.0	10.0	10.0	10.0	10.0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	149.0	149.0	149.0	149.0	149.0	149.0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	149.0	149.0	149.0	149.0	149.0	149.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	149.0	149.0	149.0	149.0	149.0	149.0

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

The fiscal impact for FY 90 would be zero. Analysis is attached.

Prepared by: Gail Gatton Phone: 465-2600
Division: Administrative Services Date: 1/30/90

Approved by Commissioner: *A. D. Kelly* Date: 30 Jan 90
Agency: Environmental Conservation

Distribution (by preparer):

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

House Bill 409
1/29/90 Version

Section 3 of this bill gives the Department new authority to assess administrative penalties for violations of laws and regulations designed to protect the environment. Due process, under this bill, allows for a hearing to be held prior to the assessment of penalties. Since DEC does not currently have this authority, we do not have any positions capable of performing these functions. Therefore, the Department would need one hearing officer and a paralegal to conduct the hearings required before assessment of administrative penalties.

Contractual(\$12.0) includes court reporter, transcripts, and professional contracts.

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Attorney III	68.0	5.0	8.0	1.0	5.0	\$87.0
Paralegal Assistant II	44.0			1.0	5.0	\$50.0
(Contractual)			12.0			\$12.0
TOTALS	112.0	5.0	20.0	2.0	10.0	\$149.0

Position Title Attorney III		No. of Positions 1	Range/Step 12A	Barg. Unit N/A
Time Status PFT	Staff Months 12	Location Juneau		Election District 04
Type of Expenditure		Amount		
1	2	3		
Salary	52.3			
Benefits	15.7			
Premium Pay	0			
Other	0			
Total Personal Services		68.0	\$	
Travel		5.0		
Contractual		8.0		
Commodities		1.0		
Equipment		5.0		
Other		-		
Total Cost		87.0	\$	
Funding Source for Total Cost				
Federal Receipts	1002	0		
G. F. Match	1003	0		
General Fund	1004	87.0		
GP Program Receipts	1005	0		
Other		0		
Justification				
<p>This position will be necessary to perform the functions required in this legislation. The administrative penalty process allows for a hearing to be held prior to the assessment of penalties, if review is sought, within 30 days. This position will review these proposed penalties, do legal research, conduct hearings, evaluate the case, and make an assessment as to the appropriateness of penalties. We do not currently have anyone on staff qualified to perform this function.</p>				

**Request For
New Position**

Agency Environmental Conservation
 BRU Administrative Services
 Component Administrative Services

Page 3 of 4
 Revised Date

FY 91

Position Title Paralegal Assistant II			No of Positions 1	Range/Step 16A	Barg. Unit CCU
Time Status PFT	Staff Months 12		Location Juneau		Election District 04
Type of Expenditure			Justification		
		Amount	<p>This position will assist the hearing officer to determine administrative penalties. Will perform research, help review cases, organize hearings and otherwise ensure that the hearing process is carried out in an appropriate and timely manner.</p>		
1	2	3			
Salary	32.0				
Benefits	12.0				
Premium Pay	0				
Other	0				
Total Personal Services		44.0			
Travel		0			
Contractual		0			
Commodities		1.0			
Equipment		5.0			
Other		0			
Total Cost		50.0			
Funding Source for Total Cost					
Federal Receipts	1002	0			
G. F. Match	1003	0			
General Fund	1004	50.0			
GF Program Receipts	1005	0			
Other		0			

**Request For
New Position**

Agency Environmental Conservation
 BRU Administrative Services
 Component Administrative Services

Page 4 of 4
 Revised Date

FY 91



Alaska State Legislature

HOUSE RESOURCES COMMITTEE

P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3715

CHANGES FROM HB 409 TO CSHB 409

Section 1 - Adds a new section to allow DEC to do reasonable inspections of a regulated facility without first obtaining a warrant or without first receiving permission from the owner.

Section 3 - Provides language changes to clarify the procedures for administrative penalties.

Section 4 - Adds a provision to provide DEC with express authority to require environmental audits.

Deletes old section 4 which revised the criminal penalty provisions for oil and hazardous substances releases.



Alaska State Legislature

Representative Mike Davis

District 19

P.O. Box V
Juneau, Alaska 99811
(907) 465-4930

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708
(907) 456-8161

TO: House Resources Committee

FROM: Rep. Mike Davis

DATE: January 30, 1990

RE: CS for HB 409

HB 409 addresses the critical need for a stronger regulatory presence when it comes to pollution violations. In recent years the state has been plagued by hundreds of oil, chemical and hazardous waste spills, many of which the state has been forced to clean up at its own expense. During my visits to cleanup sites on the North Slope, in the Interior and in Prince William Sound, it became clear to me that tougher rules are desperately needed if we are going to keep polluters to their obligation to clean up pollution.

After listening to the Oil Spill Commissions presentation to this committee I have proposed several changes which, compliment recommendation #13 of the Commissions Executive Summary. As revised in the proposed Committee substitute HB 409 would accomplish the following:

1) Allow the DEC access to inspect facilities without consent of the operator. DEC officials have expressed frustration at being barred or delayed from entering sites in order to make routine and specific investigations. This provision allows immediate entry at all reasonable times.

2) Allow the Commissioner of Environmental Conservation to levy administration penalties of up to \$25,000 per day for pollution violations, provide for an appeal process. This is similar to federal law and may soon be required by the EPA.

3) Allow the Commissioner to require environmental audits, so that the state and industry can "Trouble shoot" pollution problems before they become unmanageable.

4) Eliminate "pre-enforcement review" of compliance orders. Today, industry is allowed to challenge Compliance orders before they go into effect, tying the hands of regulators and delaying timely solution of pollution problems. Under this change, stopping the pollution will get the top priority, leaving assignment of blame