

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990

8672

6535 SENATE RESOURCES

939

**S B**

**520**

SENATE COMMITTEE REPORT  
FIRST COMMITTEE OF REFERRAL

DATE: 3/12/90

FURTHER: *J&C* Finance

Date of 5-Day Notice: 3-29-90  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4-6-90

Resources Committee considered SB 520

Authorizing a transmission line between Healy and Fairbanks; efd.

and recommended:

- replace with \_\_\_\_\_ CS \_\_\_\_\_  same title
- attached amendment(s)  new title
- \_\_\_\_\_ letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):  
Department(s)/Date:

fiscal note(s) AK Energy  
PHH

Department(s)/Date:

zero fiscal note(s) \_\_\_\_\_

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

*Rick Halford*

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*

OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*[Signature]*  
Chair: Signature and Recommendation

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Alaska Energy Authority  
 Title: "An act authorizing a trans-  
mission line between Healy & Fairbanks BRU: \_\_\_\_\_  
 Sponsor: Labor and Commerce Components: \_\_\_\_\_  
 Requestor: Senate Resources \_\_\_\_\_

**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						
<b>TOTAL OPERATING</b>						
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	60,000					
<b>TOTAL</b>	60,000					

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Source of \$60 million -- Railbelt Energy Fund.  
Fiscal impact would be in FY91.

Prepared by: Robert E. LeResche Phone: 465-3575  
 Division: Alaska Energy Authority Date: 4/6/90

Approved by Commissioner: Larry Mercuri Date: 4/6/90  
 Agency: Dept. of Commerce & Economic Development

**Distribution (by preparer):**

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

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Alaska Energy Authority  
 Title: "An act authorizing a trans- BRU: \_\_\_\_\_  
mission line between Healy & Fairbanks.  
 Sponsor: Labor and Commerce Comm. Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

**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						
<b>TOTAL OPERATING</b>						
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	125,000					
<b>TOTAL</b>	<b>125,000</b>					

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Source of \$125 million -- Railbelt Energy Fund.  
Fiscal impact would be in FY91.

Prepared by: Robert E. LeResche Phone: 465-3575  
 Division: Alaska Energy Authority Date: 4/6/90

Approved by Commissioner: Larry Mercurieff Date: 4/6/90  
 Agency: Dept. of Commerce & Economic Development

Distribution (by preparer):

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

**PRELIMINARY SUMMARY ASSESSMENT\***  
**OF THE**  
**RELIABILITY OF THE RAILBELT INTERCONNECTED**  
**ELECTRIC UTILITY SYSTEMS**  
**OF THE**  
**ALASKA SYSTEMS COORDINATING COUNCIL**

February 20, 1990

by  
a Subgroup of NERC's 1990 Reliability Assessment Subcommittee

John H. Stout, Chairman  
(Manager of Engineering Design and Development  
Houston Lighting & Power Company)

Chisua H. Fleming, Vice Chairman  
(Manager, Advanced Engineering and Planning  
Ohio Edison Company)

Richard E. Phillips, Operating Committee Representative  
(Operating Manager  
New York Power Pool)

Virginia C. Sulzberger, NERC Staff Coordinator  
(Director-Engineering  
North American Electric Reliability Council)

## Preliminary Summary Assessment

A subgroup of NERC's 1990 Reliability Assessment Subcommittee (RAS) recently reviewed the overall reliability of the Railbelt interconnected electric utility systems of the Alaska Systems Coordinating Council (ASCC) at the request of ASCC. This assessment reviewed the adequacy of the existing system and the proposed generation and transmission plans of the Railbelt electric systems over the 1990-1999 period. Included in this review were the reliability impacts of two proposed transmission interconnections — a Soldotna to University 138 kV line and a Healy to Fort Wainwright 138 kV line (possibly 230 kV or 345 kV construction).

The proposed Soldotna to University 138 kV line electrically connects the Kenai peninsula to the Anchorage Bowl area and will provide a second electrical tie between these areas. An existing 115 kV transmission line currently connects the Quartz Creek area (Kenai peninsula) to the Anchorage Bowl area. This existing 115 kV line is about 20 years old, has a poor reliability history, and has a transmission transfer capacity limit under 75 megawatts (MW).

The proposed Healy to Fort Wainwright 138 kV line will parallel the existing Healy-Gold Hill-Fort Wainwright 138 kV line. The new line is to be built on a separate right-of-way and will provide an additional outlet for Healy generation and capacity imports from the Anchorage Bowl (and Kenai peninsula) into the Fairbanks area.

The RAS subgroup noted that the existing Railbelt utilities lacked comprehensive planning and operating criteria as well as interconnection criteria for integrated planning and operations. Therefore, the existing and proposed Railbelt electric utility systems were evaluated against traditional reliability criteria and practices followed by the interconnected electric systems of NERC's Regional Reliability Councils in the lower 48 states and Canada.

For example, NERC's Planning Guides recommend to the extent practicable that an excessive concentration of generating capacity in one unit, at one location or in one area, be avoided, that excessive dependence on a single transmission line be avoided, and that a system be designed to withstand credible contingency situations. Under traditional criteria, a single generation or transmission contingency generally would not black out an entire interconnected system or cause the shedding of a portion of system load. In contrast, within the Alaska Railbelt systems, a single contingency such as the loss of fuel supply to the Beluga generating station on December 11, 1989 can and has blacked out the interconnected Railbelt electric systems. Similarly, based on information given to the RAS, during periods of high capacity transfers from the Kenai peninsula Bradley Lake project, the sudden outage of the existing 115 kV interconnection line between the Kenai peninsula and the Anchorage Bowl would likely cause load shedding in the Anchorage and Fairbanks areas and a blackout of the complete Kenai electric system. These two examples illustrate the lack of compliance with traditional NERC planning and operating criteria.

Based on a comparison of the current Railbelt interconnected systems planning and operating procedures with traditional electric utility planning and operating reliability criteria in NERC-U.S. and NERC-Canada, the RAS subgroup has concluded the following:

- The Railbelt utilities should develop, formulate in writing, and approve appropriate planning and operating reliability criteria for their respective electric systems and service areas. In addition, coordinated interconnection planning and operating reliability criteria should similarly be developed, formulated in writing, and approved under the auspices of the existing Interconnection Agreement or under the ASCC umbrella. NERC's Planning Policies encourage the development of planning and design criteria by Regional Councils, power pools, and individual systems applicable to their Region or area.
- Each major area of the Railbelt interconnected systems — the Kenai peninsula, the Anchorage Bowl, and the Fairbanks area — will have adequate

generating capacity to meet its projected peak demands over the 1990-1999 period. Neither forced outages or maintenance outages of generators are expected to adversely impact generation adequacy.

- The existing interconnection ties between the three major load centers — the Kenai peninsula, the Anchorage Bowl, and the Fairbanks area — consist of single, limited capacity transmission lines. As such, these single line interconnections constrain the sharing of generation between and among load centers and pose a significantly higher than traditional reliability risk for system-wide blackouts due to single contingency outages.
- In terms of traditional reliability criteria, the proposed Soldotna-University 138 kV transmission line provides a second circuit between the Kenai peninsula and the Anchorage Bowl and is necessary to help improve the reliability of electric supply to the Kenai peninsula, the Anchorage Bowl, and the Fairbanks area. This line will increase the electric transfer capability between the Kenai peninsula and the Anchorage area, improve system stability, and help to reduce the number of load shedding incidents in the Anchorage and Fairbanks areas and the black out or loss of electric supply to Kenai peninsula customers following certain system outages or contingencies. It will also help to reliably distribute the output of the Bradley Lake hydro generating facility to the appropriate utility purchasers of the hydro capacity. Without this line, reliability in the Kenai peninsula will likely be reduced following the completion of the Bradley Lake project.
- The proposed Healy-Fort Wainwright transmission line is needed for the reliability of electric supply to the Fairbanks area. It provides a second transmission path from Healy to the Fairbanks area for both Healy generation capacity and capacity purchases from the Anchorage area (and the Kenai peninsula). This line provides both improved reliability and economic benefits (Bradley Lake capacity) to the Fairbanks area. Its reliability impact, however, will not be as dramatic as the Soldotna-University 138 kV line, but based on traditional planning criteria, the tie is required to assure an adequate source to load path from Healy to the Fairbanks area. In fact, under traditional reliability criteria, a second transmission line between the Anchorage Bowl and the Fairbanks area would be required (either via Teeland and Healy, or some other transmission path between the Anchorage Bowl and the Fairbanks area).
- The most significant issue affecting the reliability of the interconnected Railbelt electric systems is the need to maintain a proper balance between economy and reliability. The Railbelt interconnected systems encompass a unique electrical utility network that has been operated as close to optimal economic benefit as one might reasonably expect. However, in many instances this economic operation has been at the expense of reliable electrical supply to utility customers and has compromised traditionally accepted reliability criteria. Reliability should not be relegated to a secondary position after economics. Neither should economics be ignored. Rather a careful balance between reliability and economics should be maintained. Until minimum traditional reliability standards are met, economic criteria should not dictate whether or not additional transmission facilities are necessary. The Railbelt electric systems must recognize that along with sharing the economic benefits of interconnected operation, they must accept and share the responsibility for maintaining the reliability of the interconnected systems.

A complete reliability assessment report by the RAS subgroup is expected to be available on or about March 16, 1990.

2/20/90

MEMORANDUM OF UNDERSTANDING  
REGARDING INTERTIE UPGRADES

THIS MEMORANDUM OF UNDERSTANDING dated March 14, 1990, by and between the ALASKA ENERGY AUTHORITY (Authority), and CHUGACH ELECTRIC ASSOCIATION, INC., GOLDEN VALLEY ELECTRIC ASSOCIATION, INC., HOMER ELECTRIC ASSOCIATION, INC., MATANUSKA ELECTRIC ASSOCIATION, INC., the MUNICIPALITY OF ANCHORAGE, ALASKA d/b/a MUNICIPAL LIGHT AND POWER, and the CITY OF SEWARD d/b/a/ SEWARD ELECTRIC SYSTEM (Utilities).

WITNESSETH:

A. The Authority desires to fulfill its statutory duty of providing residents of the State of Alaska with a long term, adequate and reliable supply of power;

B. The Utilities each own and operate electric utility facilities and are each engaged in the business of providing electric service to customers;

C. The Authority has constructed an electrical transmission system between Healy and Willow (Existing Intertie) to interconnect the Railbelt Utilities; and

D. The Utilities desire to further improve Railbelt transmission reliability and capacity by having the Authority construct additional intertie facilities between Healy and Fairbanks and between Anchorage and Soldotna;

NOW, THEREFORE, the parties agree as follows:

ARTICLE I  
OBLIGATIONS OF THE ALASKA ENERGY AUTHORITY

1.1 If authorized by the Alaska Legislature, the Authority shall undertake to construct new transmission lines between Healy and Fairbanks and between Anchorage and Soldotna (Intertie Upgrades).

1.2 If sufficient funds are appropriated by the Alaska Legislature to the Authority, the Authority shall be responsible for the cost of constructing the Intertie Upgrades, up to the amount of One Hundred and Twenty-Five Million Dollars (\$125 Million). The Authority shall work closely with the Utilities and shall take all reasonable and prudent actions to limit construction costs to this amount. Upon authorization by the Legislature, the appropriated funds shall be held in an interest-bearing account until construction of the Intertie Upgrades.

1.3 Any project costs in excess of the \$125 Million plus interest earned shall be financed by 30-year long-term borrowings by the Authority from any reasonable source of available monies.

1.4 The Authority shall begin design and construction of the Intertie Upgrades as soon as funds become available.

ARTICLE II  
OBLIGATIONS OF THE UTILITIES

2.1 The Utilities shall be liable for a rate for capacity and energy of the Intertie Upgrades that will pay to the Authority full debt service on any construction costs over the \$125 Million stated above in Section 1.3. Unless agreed to by the Utilities, the Authority will spend no borrowed funds to complete the Intertie Upgrades until the \$125 Million plus interest earned in state funds have been expended.

2.2 An excess payment amount will be paid to the Authority by the Utilities annually during each year after retirement of any borrowings required to finance construction costs under Section 2.1. The excess payment amount will be the average annual debt service paid during the life of such retired loans or bonds. The excess payment amount will be discontinued after the 50th year of operation of the Intertie Upgrades or upon dis-continuance of use of a substantial portion of the Intertie Upgrades, whichever occurs sooner.

2.3 The Utilities will enter into Operation and Maintenance Agreements with the Authority for the Intertie Upgrades.

2.4 The Utilities shall be responsible for the operation and maintenance expenses of the Intertie Upgrades once the Intertie Upgrades become commercially operable.

2.5 The Utilities agree to continue efforts to increase coordinated operations and dispatch of Railbelt generation in order to maximize reliance on the most efficient generation options.

ARTICLE III

3.1 The obligations of the respective parties are subject to each obtaining any necessary approvals. The obligations under this Memorandum of Understanding are contingent upon each of the Utilities accepting their respective share of obligations under Article II of this Memorandum of Understanding.

3.2 Upon final approval of the appropriations in a form contemplated in Section 1.2, the Authority and the Utilities shall enter into a written agreement incorporating the terms of this Memorandum of Understanding and providing the complete terms for financing and operation of the Intertie Upgrades.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed the day and year first above written.

ALASKA ENERGY AUTHORITY

By: \_\_\_\_\_

GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.

By: \_\_\_\_\_

**S B**

**528**

SENATE COMMITTEE OF REFERRAL

DATE: 3/21/90

FURTHER:

Date of 5-Day Notice: 3-29-90 (in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4-3-90

Resources

Committee considered

SB 528

Shellfish mariculture within the Kachemak Bay State Park; efd.

and recommended:

- [x] replace with CS SB528 (Res) [x] same title new title
[ ] attached amendmont(s)
[ ] letter of intent adopted

[x] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

[ ] fiscal note(s)

[x] zero fiscal note(s) DNR, F+G

[ ] appropriation-no fiscal note

[ ] Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Handwritten signatures: [unclear], [unclear], [unclear]

Blank lines for other recommendations

Chair: [unclear] Signature and Recommendation

# 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

March 30, 1990

MAR 30 1990

The Honorable Bettye Fahrenkamp  
Alaska State Senator  
E.O. Box V  
Juneau, AK 99811

Dear Senator Fahrenkamp:

For several years, the issuance of park use permits authorizing small-scale shellfish mariculture on 20 acres of Halibut Cove Lagoon (Kachemak Bay State Park) has raised substantial controversy.

There is a substantial legal question whether such permits are compatible with the purposes for which the park was established. Current regulations limit permits to two years, creating a difficult tenure period for economically successful mussel propagation.

SB 528 essentially declares that the commissioner "may" set aside up to 20 acres in Kachemak Bay State Park for shellfish mariculture. It solves the legal "compatibility" question over this existing use.

We recommend the following changes:

(b) Notwithstanding AS 41.21.130 - 41.21.134 the commissioner of natural resources may set aside up to 20 acres of Kachemak Bay State Park for shellfish mariculture, and the commissioner may issue long-term commercial use permits for shellfish mariculture under AS 41.21.026 - AS 41.21.030 within the 20 acres set aside for this purpose."

This wording allows DNR to manage this program within the park. The Department of Fish and Game still has Title 16 sign-off approval on what we do since the area is also a designated critical habitat.

Senator Fahrenkamp

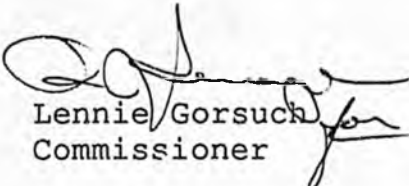
- 2 -

March 30, 1990

With this new wording above, the Department of Natural Resources supports SB 528.

We look forward to working with you on this legislation. If you should have any questions, please feel free to give me a call.

Sincerely,



Lennie Gorsuch  
Commissioner

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION : SB 528  
PUBLISH DATE : \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: 30-Mar-90 Agency Affected: Natural Resources  
 Title: An Act relating to shellfish mariculture BRU: Land & Water Mgmt  
within Kachemak Bay State Park Parks & Outdoor Rec  
 Sponsor: Rules Committee Components: Land & Water Mgmt  
 Requestor: Resources Committee Parks Mgmt

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						

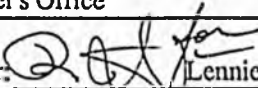
FUNDING: (Thousands of Dollars)

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)

Prepared by: Larry Ostrovsky Phone: 465-2400  
 Division: Commissioner's Office Date: 30-Mar-90  
 Approved by Commissioner:  Lennie Gorsuch Date: 30-Mar-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): Rules/Legislative Budget & Audit Committee

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 528 (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 shellfish mariculture within the  
7 Kachemak Bay State Park; and providing for an effec-  
8 tive date."

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

10 \* Section 1. AS 41.21.132 is amended by adding a new subsection to  
11 read:

12 (b) Notwithstanding AS 41.21.130 - 41.21.134, the commissioner  
13 may set aside up to 20 acres of the Kachemak Bay State Park for shell-  
14 fish mariculture, and the commissioner may issue long-term commercial  
15 use permits for shellfish mariculture under AS 41.21.026 - 41.21.030  
16 within the 20 acres set aside by the commissioner.

17 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).  
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March 21, 1990

SENATE JOURNAL

p. 2957

SB 528

SENATE BILL NO. 528 by the Rules Committee by request of the Legislative Budget and Audit Committee, entitled:

"An Act relating to shellfish mariculture within the Kachemak Bay State Park; and providing for an effective date."

was read the first time and referred to the Resources Committee.

April 3, 1990

SENATE JOURNAL

p. 3187

SB 528

The Resources Committee considered SENATE BILL NO. 528 (An Act relating to shellfish mariculture within the Kachemak Bay State Park; and providing for an effective date) and a majority of the committee recommended it be replaced with

CS FOR SENATE BILL NO. 528 (Resources)

and do pass. The report was signed by Senator Kerttula, Vice-Chair, and concurred in by Senators Eliason, Zharoff and Sturgulewski.

Zero fiscal notes for SENATE BILL NO. 528 and the Committee Substitute published today from Department of Natural Resources and Department of Fish and Game.

SENATE BILL NO. 528 was referred to the Rules Committee.

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION CS SB 528 (Res) (a)

PUBLISH DATE: 4/3/90

FISCAL NOTE

REQUEST:

Revision Date: 30-Mar-90  
Title: An Act relating to shellfish mariculture within Kachemak Bay State Park  
Sponsor: Rules Committee  
Requestor: Resources Committee

Agency Affected: Natural Resources  
BRU: Land & Water Mgmt  
Parks & Outdoor Rec  
Components: Land & Water Mgmt  
Parks Mgmt

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						
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REVENUE						
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FUNDING: (Thousands of Dollars)

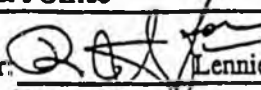
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
FART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Larry Ostrovsky Phone: 465-2400  
Division: Commissioner's Office Date: 30-Mar-90

Approved by Commissioner:  Lennie Gorsuch Date: 30-Mar-90  
Agency: Department of Natural Resources

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

Changes in CS SB 528 (Res) have no fiscal impact. This fiscal note is appropriate. Projections of no fiscal impact would continue through 1996.

**STATE OF ALASKA  
1990 LEGISLATIVE SESSION**

CS  
BILL VERSION: SB 528 (Res) (b)  
PUBLISH DATE: 4/3/90

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: Relating to Shellfish Mariculture Kachemak Bay State Park  
Sponsor: Rules  
Requestor: Legislative Budget & Audit

Agency Affected: Fish and Game  
BRU: Division of Habitat  
Components: Habitat

**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						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

No FY 90 impact.

Prepared by: Molly McCammon Phone: 465-4100  
Division: Commissioner's Office Date: 04-02-90

Approved by Commissioner: [Signature] Date: 4/3/90  
Agency: \_\_\_\_\_

**Distribution (by preparer):**

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

Changes in CS SB528 (Res) MEMO  
have no fiscal impact. This  
fiscal note is appropriate. 7  
Projections of no fiscal impact

NO. OF PAGES

**STATE OF ALASKA  
1990 LEGISLATIVE SESSION**

BILL VERSION: SB 528  
PUBLISH DATE: \_\_\_\_\_

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: Relating to Shellfish Mariculture Kachemak Bay State Park  
Sponsor: Rules  
Requestor: Legislative Budget & Audit

Agency Affected: Fish and Game  
BRU: Division of Habitat  
Components: Habitat

**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						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

No FY 90 impact.

Prepared by: Nolly McCammon Phone: 465-4100

Division: Commissioner's Office Date: 04-02-90

Approved by Commissioner: [Signature] Date: 4/3/90

Agency: \_\_\_\_\_

**Distribution (by preparer):**

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

\*\*\*\*\*  
F A X T R A N S M I T T A L M E M O

TO: Nancy  
DEPT: \_\_\_\_\_ FAX #: 463-4867  
FROM: Nolly PHONE: 465-4100

NO. OF PAGES

Kathy  
464

3 1 2 40

Kachemak Shellfish Mariculture Association  
12304 Hilltop Drive  
Anchorage, Alaska 99515

March 10, 1990

Senator Jay Kertulla  
P.O. Box v  
Juneau, Alaska 99811

Dear Senator Kertulla,

The members of Kachemak Bay Shellfish Mariculture Association (KSMA) are continuing to work toward resolving the issue of shellfish mariculture compatibility with Kachemak Bay State Park. We would like to inform you that the Kenai area superintendent of the Division of Parks and Outdoor Recreation's Kachemak Bay State Park has decided not to reissue, beyond Nov. 1990, the mussel mariculture permits that have been located and permitted within the Kachemak Bay State Park's Halibut Cove Lagoon for the past two years. This is being done even though the Park actively advertised for applicants and encouraged entrance into the area. Furthermore, the cultivation of mussels was going on in the Halibut Cove location even before the park was given jurisdiction of the waters due to the rich, world class nature of the area's waters. This decision has been made without any communication between mariculturists and the park and with little justification as to the reason why. Out of all the comments received in the visitor log at the ranger cabin in Halibut Cove Lagoon during the past two years, only one had any negative comments regarding mariculture.

We would appreciate your assistance in preserving our fledgling industry in which we have invested thousands of dollars per permittee along with countless hours of work. We are still seeking legislation which would mandate the compatibility of shellfish and marine plant farming with only the twenty acre portion of the park where we are currently operating. This is the small portion of Halibut Cove Lagoon which has been set aside after careful study by both ADF&G's Habitat Division and DNR's Division of Parks. We have no interest in mandating compatibility for the entire park but only would like to preserve our small area where we have been for years.

KSMA recently met with DNR Commissioner Lenny Gorsuch, and representatives from DNR's Division of Land and Water Management and Division of Parks on March 5th. In that meeting DNR and KSMA's board of directors came up with a legislative change which DNR would support and which both DNR and KSMA believe would ammend the situation.

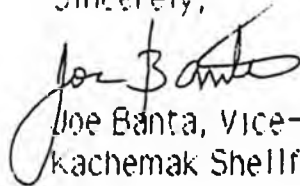
The change would involve a simple one paragraph change to the existing Kachemak Bay State Park bill. The basic form is as follows:

The Department of Natural Resources is authorized to set aside up to twenty acres of Halibut Cove Lagoon for shellfish mariculture in accordance with AS 38 (Existing mariculture regulations).

We believe a variation of this sentence could be added to the legislation authorizing purchase of the Seldovia Native Association lands. Perhaps there is other legislation which this could be added to and would work as well.

The business of growing shellfish is what got KSMA members together, from Homer to Halibut Cove to Anchorage, and we would much rather be doing that rather than politicking. Although we do appreciate the opportunity to work with you, we are losing valuable seasons of work on the biological portion of our business. This problem has put the shellfish mariculture industry in Southcentral Alaska back a good two years. KSMA would appreciate your assistance and if we we can provide any additional information, please let us know. Similar letters have been sent to Representative Mike Navarre and Senator Paul Fischer.

Sincerely,



Joe Banta, Vice-President  
Kachemak Shellfish Mariculture Association

KSMA  
Position Statement

- \*Shellfish and marine plant mariculture is the only type of mariculture supported by KSMA
- \*Shellfish and marine plant mariculture is a low impact, low tech method of mariculture that is absolutely dependent upon clean and unpolluted waters.
- \*KSMA is committed to mariculture that is not detrimental to the surrounding marine environment.
- \*KSMA supports an industry that is based upon the concept of small, artisanal, co-op organisations with membership composed of local residents.
- \*KSMA board members all hold college degrees in biological sciences, and work in the fields of fisheries and marine biology.
- \*KSMA board members are environmentally concerned citizens. One member is on the board of directors for the Northwestern Region of the National Wildlife Federation, another is on the board of directors of Trustees for Alaska, and the other two are members of Alaska Center for the Environment.
- \*KSMA believes that shellfish and marine plant mariculture is compatible with state park guidelines, when it is carefully planned and located.
- \*ADF&G's Habitat Division has determined that Halibut Cove Lagoon is one of the best places in Kachemak Bay for minimizing user conflicts, and this is due to the fact that the Division of Parks did a long carefully planned analysis when they located the site in Halibut Cove Lagoon.
- \*Because shellfish and marine plant mariculture is totally dependent upon pristine water, the industry can be an ally to those concerned about potential pollution from sources such as mining, logging, and petroleum development.
- \*There is a great deal of educational value in shellfish and marine plant mariculture, as it combines the concepts of growing organisms together with the complexity of the marine environment. These are two areas that would be of great interest to students or park visitors. This type of mariculture also reinforces the importance of protecting our waters from pollution. KSMA would welcome educators interested in using facilities for educational purposes.
- \*KSMA is establishing operating standards for all its members who are permitted to operate within Kachemak Bay State Park so as to provide a self policing mechanism which promotes the lowest impact on a visual and biological level.

3.27.90

APR 2 1989

Dear Betty,

The following issues address the realities of the Kachemak Bay State Park. How much it cost the state per visitor in the Kachemak Bay State Park, how many are targeted for land use and how many are fishing in the saltwaters of the park, and what services are supplied by state parks for each of the interest groups.

Persons targeted for land use, hiking, glacier climbing etc. I will be using numbers taken by charter boats only. Because of our extreme tide and weather problems people seldom leave boats unattended.

Water taxi-----	1988-360	1989-309
Lodge -visitors---	1988- 72	1989- 72
Misc. -----	1988-100	1989- 75

Total land traffic-----1988-532      1989-456

Motor boat traffic specifically headed for park waters not passing through to get to a summer cabin or residence. and kayaks. This is information from A.D.F. & G.

Claming by charter-	1989--120	1989---70
Tutka bay hatchery-	1988-2575	1989-3000
H.C. lagoon Kings--	2600	2200
Chinapoot Reds----	1200	1200

Humpy Creek -- very little activity

(these I believe are slightly high numbers just by comparing H.C. Lagoon with local opinion)

Kayaks who traveled, without water taxi, from Homer		
	1988-75	1989-120

Total Marine traffic      1988-6570      1989-6590

The actual mail survey shows approximately 11,000 finfish participants and 9,000 shell fish participants in Kachemak Bay, however, these two numbers probably have at least a 90% overlap. Of course Not all of the above are targeted for the KBSF. These are 1987 numbers so they may be off, if anything high.

Numbers of persons taken to the park is from information from actual charter persons.

-----Total traffic in the Kachemak Bay State Park-----		
	1988=7102	1989=7046

What does the ranger offer in terms of service to these visitors?

Trail enhancement-most park trails were built by locals over the years, and by the 4H kids. Trail system is confined to the Halibut Cove area. Refer to Exhibit (B)

Emergency assistance- It is difficult to reach the ranger by radio or boat because of location. Of course boat breakdowns are taken care of by RESQUE 21, and /or locals.

Informing visitors of dangers in the park. There is no information concerning the very dangerous tidal lagoons in the park. There basically is no verbal information unless you get into H.C. Lagoon, one of most dangerous lagoons in the Bay.

The ranger checks for fishing licenses in H.C. lagoon. That fishery is over the end of June.

Actually meeting a ranger on one of the Grewink Glacier trails would be unusual because their whaler is too large to be safely left beached. This confines the ranger to the lagoon trail system which get about 50-100 visitors per year, highest percent of traffic going to the Grewink Glacier area.

Information offered in Park Brochure pertains to land use only. The ranger himself is no seaman and seems oblivious to the dangers on the sea. Perhaps because he is operating a \$50,000 whaler that was designed to be safe for anyone. He is also hauling park volunteers, people who simply need a ride, and other rangers for free and with no Coast Guard license.

The Kachemak Bay State park cost the people of the state a very tidy sum of money.

Two boat stalls in the Homer harbor-----	888.30
This isn't extra transient fees	
1. 18' aluminum HN-3229	
2. 17' whaler AK1643k	- For one ranger-
3. 27' Blue aluminum	
Annual upkeep and depreciation would average---	15,000
Electricity at H.C. ranger cabin in 1989-----	1143.83
Jan and Feb of 1990 was	291.34
The New Ranger Cabin in H.C. lagoon -----	5000.00
Food and Fuel for Ranger&Volunteers-----	3000.00
Truck -depreciation and repairs-----	6000.00
Rangers part time salary & benefits 6 mo.---	23491.57
Hidden expenses, travel etc.-----	1000.00
Total expenses-----	55523.70
this is not including extra months or other rangers	

This looks like each visitor to the Kachemak Bay State Park costs the state of Alaska 7.88. I may remind you the

the Ranger is available to only 2300 persons so in all honesty it's 23.14 per person.

What has the Park Service actually accomplished over the past 4 years, in the KBSF? Two functioning trails were built and one of those parallels an existing trail. One other trail built up a mountain but has a dead end. Out houses were built in H.C. lagoon. Trail markers were put on all the existing trails, and annual brush out done. This cost the state approximately \$200,000 (being conservative). That is one heck of a lot of money. Many local persons would love to bid on a job like that.

Is the KBSF having a tremendous increase in traffic? NO. I feel the reason for no increase in park use is the tremendous increase in (destination) attractions around the bay. Four years ago I would have taken at least 300 people to the park many of which were student groups, large family outings, etc. There are now more accommodating facilities around the Bay. For example I have had a 40% increase in business over the past 2 years and a decrease in camper traffic. I believe this trend will continue as private enterprise develops.

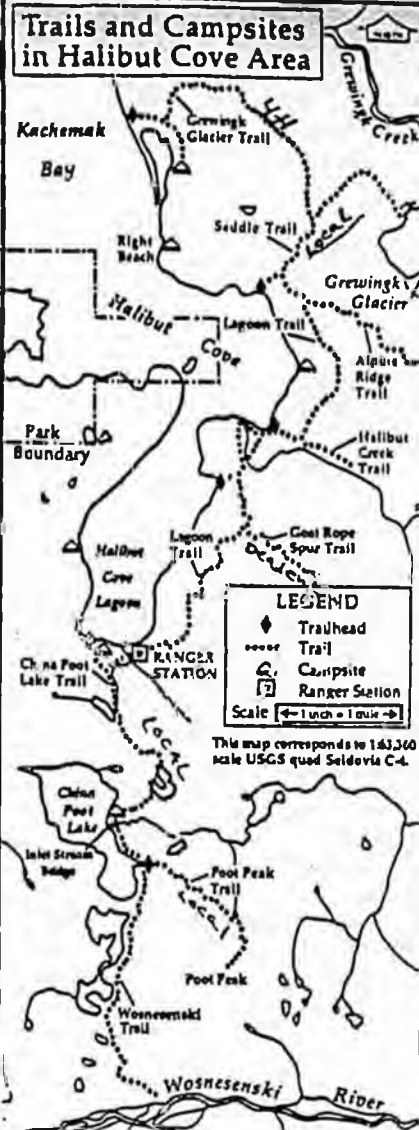
Also keep in mind our adverse weather and tide conditions. The majority of use in the KBSF is on the ocean not upland streams and lakes. Because of the unique problems here on the Bay development cannot take place like it has on the Kenai river for instance, and there for should not be subject to the same type of regulation. The parks persons stated that 11 AAC.12.340 (19) was adopted to satisfy regulation needs on the Kenai river. I feel that any (Commercial) activity associated to the KBSF is incidental (for example, on a rough day a halibut charter fishing off of Glacier Spit) and should fall under -ordinary- use. If Parks wants some information from park users have questionnaires available at the Homer chamber of commerce on Homer Spit. Currently the Ranger in Homer not only is not on the Spit but several miles out of town.

The example of the over blown STING that I recieved for taking a few people to the park for free, seems to indicate a frantic need to substantiate an existence. Another perception could be that the Kenai Rangers are over staffed and have a lot of extra cash. The sting cost approximately \$20,00, involved approximately 40 persons, and 9 of the 10 Rangers from the Kenai division.

Sincerely,

*Marian T. Beck*

Marian T. Beck



### Hiking Trails

The park's trails receive little maintenance and often climb over steep, rugged terrain. Routes may be hidden at times by fallen trees or tall grass. Exposed rocks and roots, and wet, boggy areas are common. Depending on the trail taken, you may need to cross several glacial streams. Following is a partial list of the park's trails. Hiking times given are the minimum needed by a person in good physical condition without a pack to hike the trail one way. For more information, contact a state park ranger in Homer or Halibut Cove Lagoon.

#### Access to the Park

Access to the park is by boat or airplane, as there are no roads to the park. Air charters, water taxi services and boat rentals are available in Homer.

**Alpine Ridge Trail (2.0 miles)**  
 Rating - moderate to difficult  
 Hiking Time - 1 hour, 40 minutes to 2 hours  
*Built by locals*  
 This steep hike begins at the high point on the Saddle Trail and follows a ridge up through spruce and alder stands to the alpine tundra and its many wildflowers. Slippery vegetation may make footing difficult on steeper slopes. Once above timberline, the views of the Grewwink Glacier on one side and a deep glacial valley on the other are spectacular. Rock cairns mark the alpine part of the trail, but picking out some landmarks will make it easier to find the end of the trail for the trip back down. Remember that alpine areas are extremely fragile; please practice minimum impact camping.

**Lagoon Trail (5.5 miles)**  
 Rating - moderate to difficult  
 Hiking Time - 5 hours  
 From the junction with the Alpine Ridge Trail, the Lagoon Trail winds along Halibut Cove and passes through a wet, boggy area to the Halibut Creek Trailhead and delta. You may be able to ford the river at the low tide line but the water can be high, depending on the weather. Pick up the trail again by walking upstream (on the south side) about 200 yards or walk around the delta on the tide flats. A series of steep switchbacks then leads through a spruce forest up to where the trail intersects Goat Rope Spur Trail at 1200 feet. The trail continues downhill and south, across Falls Creek and on to the end of the lagoon and the ranger station. Here you may take the stairs down to the stream where a sign directs you to the China Poot Lake Trail.

**Goat Rope Spur Trail (0.5 miles)**  
 Rating - difficult  
 Hiking Time - 1 hour  
 This is a short, steep trail through alders that begins at the highest point on the Lagoon Trail. It leads hikers up through a "notch" and in the alpine areas where the trail ends. Take your camera for pictures of the view.

**Grewwink Glacier (3.5 miles)**  
*built by 4H*  
 Rating - easy  
 Hiking Time - 1 hour, 20 minutes  
 This is an easy hike over flat terrain, through stands of spruce and cottonwood and across the outwash of the Grewwink Glacier. It offers superb views of the glacier and surrounding area. There is a small campground about ten minutes from the trailhead, and another at Right Beach, a favorite water taxi drop-off point. Right Beach is accessible by land only from the north and only at low tide. Rock cairns mark the trail across the outwash of the glacier. Access to the glacial ice is difficult and hazardous due to the slide area on the south and steep cliffs on the north. There is a stream near the junction of this trail and the Saddle Trail.

**Saddle Trail (3.5 miles)**  
*built by locals*  
 Rating - moderate  
 Hiking Time - 2 hours  
 This hike leads over the saddle between Halibut Cove and the Grewwink Glacier and is steep on the Halibut Cove side. The Saddle Trail accesses the Alpine Ridge and Lagoon Trails and also connects with the Grewwink Glacier Trail. No transportation is available from the trailhead to Glacier Spit or Halibut Cove unless you have made prior arrangements. It is not possible to hike the beach from the trailhead to the Right Beach campsite due to steep cliffs. The Saddle Trail trailhead is a popular spot to land boats during bad weather. Please respect private property near this trail.

**China Poot Lake (2.5 miles)**  
*Original built by locals*  
 Rating - easy to moderate  
 Hiking Time - 1 hour, 15 minutes  
 This trail begins at Halibut Cove Lagoon and passes three lakes beneath China Poot Peak. You reach the first lake after 15 minutes of hiking uphill. The trail crosses the lake outlet stream just before reaching the lake and continues through forest and bog for 30 minutes to the second lake - Two Loon Lake. China Poot Lake is another 30 minutes away through more spruce and muskeg.

**Poot Peak (2 miles)**  
*Built by locals*  
 Rating - difficult  
 Hiking Time - 3 to 4 hours roundtrip  
 This steep, slick, unmaintained route begins across the China Poot Lake inlet stream bridge and heads up to timberline. Climbing the 2100 foot peak is hazardous due to shifting scree and rotten rock. Hand and foot holds are poor at best and worse in wet weather. Your efforts will be rewarded above timberline with superb views of Wosnesenski Glacier and Kachemak Bay.

**Wosnesenski Trail (2 miles)**  
*Goes to nowhere*  
 Rating - easy to moderate  
 Hiking Time - 1 hour, 15 minutes  
 Begin this trail where it meets the China Poot Peak Trail, about 10 minutes after crossing the inlet stream bridge at China Poot Lake. This fairly easy trail winds along the shoreline of three lakes formed by a geologic fault. You will find a good camping area in a stand of cottonwoods by the lake after about 25 minutes on the trail. After another 25 minutes of hiking, the trail climbs over a low saddle and drops down into the valley. Be careful if you decide to cross the rivers while exploring the valley. Glacial rivers vary in depth and current depending on the weather, but the water level is usually lower in early summer and much higher in July and August. Choose a slow-moving, shallow spot to cross; water above thigh level is too hazardous to cross. A pair of tennis shoes will make crossing these icy rivers easier.

Marian & Beck  
Halibut Cove, AK  
99603



Bettye. Fahrunkamp  
Pouch V  
Juneau, AK  
99811



Official Business

# Alaska State Legislature

## SENATE


P.O. Box V  
State Capitol  
Juneau, Alaska 99811

### SPONSOR STATEMENT

#### SENATE BILL 528

Senate Bill 528 would authorize the Department of Natural Resources to issue permits to shellfish growers to grow mussels in 20 acres of Kachemak Bay State Park. The shellfish growers have been operating in the park under DNR permits for the past two years and their operations have been economic and environmental successes. However, there have been questions over whether DNR actually has statutory authorization to permit this activity. Therefore, the department has notified the permittees that mussel mariculture permits will not be reissued beyond November 1990. Senate Bill 528 provides statutory authorization for these small businesses which have been successfully operating for the past two years. The only 20 acres which are suitable for mussel cultivation in the park is that area which is presently being used for that purpose.

Senate Bill 528 has a "0" fiscal note and is supported by the administration. I urge your support for the bill.

  
\_\_\_\_\_  
Senator Jay Kerttula

## MUSSEL AQUACULTURE IN ALASKA

James E. Hemming  
Otter Sea Farms  
Anchorage, Alaska

Mussel culture is not new. It began more than 750 years ago in France when an Irish sailor put a fish trap made of wooden poles on the tide flats. Instead of fish, he caught blue mussels when spat settled in great abundance on his poles. Mussels proved to be an easily obtainable food source in France and the Irishman's discovery eventually led to a culture system called the bouchot system, which is still in use in France.

Blue mussels are grown in Washington on Puget Sound. They are also grown commercially along the New England coast, and on cil rigs in the Santa Barbara channel of southern California. Each of these areas has chronic water quality problems.

Alaska has innumerable fiords and protected bays with excellent water quality that should provide suitable sites for shellfish culture. With good planning, technical support, and protective regulations, Alaska could easily become the mariculture center of North America.

Blue mussels are filter feeders, which collect food by straining microscopic organisms from the water they live in. In the wild, mussels occur in the intertidal zone, where they are uncovered part of each day by the tide. This means that they can feed only about half of each day. Because they must filter algae and plankton from the water, they do best in areas with relatively strong currents and good circulation. Wild mussels grow slowly in intertidal zones because they can feed only during high tide. Cultured mussels reach commercial size in 12 to 18 months, whereas wild mussels may require five years or more to reach an equivalent size. If you compare wild versus raft-grown mussels of the same shell length, you will find that the raft-grown mussels yield 40 to 50 percent more meat than their wild cousins, i.e., they are fatter.

Wild mussels attach themselves to rocks and old shell debris on the bottom where they are constantly scoured by sand and gravel moved by tidal currents. If sand grains become embedded in soft tissues, they form tiny pearls or grit that are unpalatable to patrons of fine restaurants. The use of raft or longline culture systems keeps mussels off the bottom, which reduces the hazard of pearl development, and in the water column where they can feed and grow continuously.

### CONSIDERATIONS FOR STARTING A BLUE MUSSEL FARM

The attributes for an ideal mussel farm include:

1. Protection from weather.
2. Excellent water quality.
3. An abundant supply of food organisms and nutrients in the water column.
4. Ice-free conditions.
5. Limited human settlement or development (minimum pollution).
6. Abundant wild mussels for seed stock.
7. Low incidence of paralytic shellfish poisoning (PSP).

#### Shelter

A suitable site must have some protection from seasonal storms that may cause damage and make harvesting impossible. Sturdy rafts and longline systems can be used in bays that are not facing directly into the open sea. It is important to define the worst possible wave conditions for the site under consideration before making final decisions to establish a sea farm. On the more exposed sites, longline systems may prove the most practical.

#### Depth

A minimum depth of 8 to 10 fathoms is required for raft or longline systems, because net tubes containing young mussels are usually 10 to 20 feet in length and the dropline must be kept off the bottom to avoid predation by fish. There also is an advantage to establishing raft or longline systems in areas with water depths greater than those normally used by feeding sea ducks: deep water sites would significantly reduce the risk of sea duck predation on young mussels. Our system is anchored at a depth of 20 fathoms.

#### Sea Bed Type

The best type of bottom for holding moorings is firm mud or clay. Sand bottoms can also be used but may require burying anchors with diver assistance.

#### Salinity

Blue mussels can exist in salinities as low as 5 parts per thousand (ppt) but will grow well in salinities of 17

ppt or greater. At our site, summer salinities averaged 26.6 ppt at the surface and 24.5 ppt at 10 feet below the surface. Ocean water is usually considered to be 35 ppt.

#### Temperature

Mussels survive in temperatures ranging from  $-4^{\circ}$  to  $80^{\circ}\text{F}$  ( $-20^{\circ}$  to  $27^{\circ}\text{C}$ ). Mussel growth rates will increase as temperature increases up to about  $68^{\circ}$  ( $20^{\circ}\text{C}$ ) provided that sufficient food is available. Temperatures at our location in Halibut Cove Lagoon range between  $34^{\circ}\text{F}$  and  $55^{\circ}\text{F}$  (near  $0^{\circ}$  to  $12.5^{\circ}\text{C}$ ). Summer temperatures averaged  $53^{\circ}\text{F}$  ( $11.6^{\circ}\text{C}$ ).

#### Water Quality

It is important to select sites that are free of industrial or sewage pollution. Sewage pollution can be remedied by using depuration, but this is costly. Depuration is the process of moving live mussels from the harvest site to tanks containing sterilized seawater, and holding them there until they are free of coliform bacteria and chemical pollutants. It is necessary to depurate commercially harvested mussels and clams from many locations on the East Coast, and it is a common practice in Europe. In Alaska, we have a great advantage over other locations because most areas are still pollution-free. Alaska regulations require that water samples be taken several times a year from shellfish growing areas.

#### Water Exchange and Currents

Tidal action and circulation should be adequate to replenish food organisms and to keep the water well oxygenated and to dilute toxic products released by the shellfish themselves. Most sites with moderate currents are suitable for growing mussels except those at the heads of bays where currents may be very slow and where food availability may be limited. If longline systems are used in areas with very strong currents it may be difficult to work the lines.

#### Feeding Conditions

Mussels feed on runoff from land as well as on the microscopic plants and animals that occur naturally in the water column. The best feeding conditions are usually found adjacent to steep-sided fiords, and poorer conditions occur adjacent to flat or low-lying coastlines.

#### Growth

In many parts of the world, commercial-sized mussels (1 ½ to 2 inches in length) can be produced within 18 months from spat fall, except in places where salinity is so low that it hinders feeding. At our site, mussels reach commercial size in approximately 12 months.

#### Seed Supply

Mussel farm sites should be selected close to good natural populations of wild mussels, where wild seed can be collected or spat collectors can be used. Another option would be to purchase spat from a commercial or state-operated hatchery. There seems to be good potential for economic production of spat for purchase by shellfish growers at facilities such as Sheldon Jackson College in Sitka. I think all of the shellfish growers in Alaska would welcome a hatchery and it would probably pay for itself.

#### Fouling

This includes competitor organisms such as barnacles, tube worms, sea squirts, and kelp. The presence of fouling organisms results in higher maintenance costs. If they affect the appearance of mussels, they may result in lowered market value. However, the presence of plant materials such as kelp increase the organic matter available for mussel feeding. In some parts of the world, kelp culture is an integral part of mussel culture. Finfish farmers and oyster farmers would probably consider mussels vermin. They are one of the chief fouling organisms for various types of three-dimensional aquaculture.

#### Predators

Common scoters and other sea ducks feed heavily on blue mussels. If they discover a mussel farm, special remedies such as scarecrows or protective netting will be required around the rafts. As mentioned earlier, we found that by setting our rafts in parts of the fiord where our anchors are at depths much greater than the normal feeding range of sea ducks, we have no problem with predation. It is important to understand the natural feeding patterns of sea ducks in a potential sea farm site, so feeding areas can be avoided. If predators discover the rafts, it probably will be necessary to hang nets around raft boundaries. This will increase the level of maintenance labor required to regularly clean fouling organisms from the netting.

#### Parasites and Diseases

Suspended mussel culture minimizes infection by parasites such as pea crabs and red worms (red worms are actually copepods). It also avoids production of pearl-like particles in the flesh, which are often found in wild mussels as a reaction to both sand bombardment and trematode worm infections. Another problem requiring special attention is related to paralytic shellfish poisoning. This problem is caused by plankton blooms made up of toxic organisms that are ingested by the mussels. The mussels become dangerous to humans for several days or weeks. As a result, it is required by permit to test each shipment of blue mussels before they

can be approved for commercial sale. In selecting sites, it also is important to collect background information on natural levels of PSP in hard-shell clams, cockles, and mussels to be sure that the site is free of problems. At present, the only PSP testing facility is the state laboratory in Palmer. Because of its location, it is time consuming and sometimes costly to obtain test results in a timely manner. Meanwhile, harvested shellfish must be held out of water and artificially chilled. Increased facilities at more convenient locations on the coast would ensure delivery of higher quality product and reduce costs.

### Use Conflicts

In selecting a site, careful attention must be paid to other users of the area. These may include commercial fishing operations, gear storage, recreational traffic areas, etc. Such use patterns may not always be obvious and it is important to check with local fisherman and residents before finalizing site selection. As a shellfish grower in Maine puts it, "Musseling in at the expense of traditional communities can only lead to hostility."

We also have learned that mussel farming is compatible with special upland classifications such as state parks and wilderness areas because both parks and shellfish farms have a long-term interest in maintaining very high quality water. Usually this is assured only by restricting upland development and settlement. For example, our operation is within park waters in Kachemak Bay State Park and requires a special land use permit from the State Division of Parks rather than the usual Land and Water Resources Division permit from the Department of Natural Resources. Consider the long-term use potential of your site carefully before making a capital investment.

### Access

Shellfish farms should be located close to good commercial transportation. Site feasibility assessments should include the cost of transporting products to market and the distance from reliable road or air transportation.

### Permits

Once a suitable site has been found, permits and licenses must be obtained. An Alaska business license is the first step, followed by a tidelands lease, water quality certification, coastal management consistency

determination, Corps of Engineers Section 10 Permit for structures in navigable waters, Commercial Fisheries Entry Commission permit, a shucker-shipper permit from the Department of Environmental Conservation, and soon a shellfish farm permit from the Alaska Department of Fish and Game (ADF&G). If the sea farmer plans to do anything beyond harvesting and shipping live mussels to market, other permits may be required as well.

At present, it is possible to apply for a shellfish farm permit at any location on the coast. However, there has been no planning by the state to identify areas that are both suitable for shellfish culture and have minimum conflicts with other users. Because of this, we are seeing a flood of applications for shellfish farms in the small lagoon where our farm is located because people don't know where else to go. There will probably be serious conflicts at our site in the very near future.

Before we go much farther with regulations and permits for other species, the state should do a coastal survey to identify areas that are suitable for mariculture and that do not have serious conflicts with other users. This is not difficult to do and would not be very expensive.

Once a survey is done, areas should be zoned for mariculture so new business can have the long-term support needed to assure financing as well as the potential for successful farm operation.

The farm regulations proposed by ADF&G may also create problems, because they would restrict permits to those of us with prior experience in sea farming. This would be good for me but not for newcomers.

There is no specified time limit on ADF&G permits or provisions for removal of facilities such as rafts or longlines when a permit is dropped. This means a flaky operator could abandon his system, leaving the state with the liability for cleaning up the mess. By having a set permit period requiring periodic reviews and by placing the liability for removal of facilities with the permittee, we would see the development of a much more responsible mariculture industry.

Draft regulations also seem to mix finfish culture with shellfish culture, and I don't think the shellfish farmers want their permits tied to the tail of salmon farmers or vice versa. There needs to be a clear definition of what is meant by shellfish.

Regulations also need to require that cultured shellfish seed stocks not endemic to Alaska be certified disease-free before they are introduced into Alaska waters. We don't want to be shut down because someone brings in diseased spat.

If we are going to start a new industry, we need to do it right to assure success.

Original sponsor(s): Rules/Legislative Budget & Audit Committee

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 528 (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 shellfish mariculture within the  
7 Kachemak Bay State Park; and providing for an effec-  
8 tive date."

9 BE IT ENACTED BY THE LLGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 41.21.132 is amended by adding a new subsection to  
11 read:

12 (b) Notwithstanding AS 41.21.130 - 41.21.134, the commissioner  
13 may set aside up to 20 acres of the Kachemak Bay State Park for shell-  
14 fish mariculture, and the commissioner may issue long-term commercial  
15 use permits for shellfish mariculture under AS 41.21.026 - 41.21.030  
16 within the 20 acres set aside by the commissioner.

17 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).  
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Kachemak Shellfish Mariculture Association  
12304 Hilltop Drive  
Anchorage, Alaska 99515

March 26, 1990

MAR 28 1990

Senate Resources Committee  
P.O. Box V  
Juneau, Alaska 99811

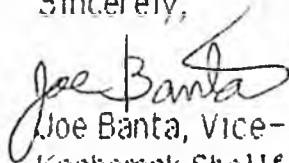
Dear Senator Fahrenkamp,

The members of Kachemak Bay Shellfish Mariculture Association (KSMA) are continuing to work toward preserving our 20 acre area set aside for shellfish mariculture within Kachemak Bay State Park's Halibut Cove Lagoon. We were very pleased to see SB 528 introduced to address our concerns. We are requesting some minor changes which we feel would help to clarify the bill. They are as follows:

**Line 13** "shall set aside up to twenty acres of the Kachemak Bay State Park's Halibut Cove Lagoon..."

We are enclosing a copy of an earlier letter which we sent to Senator Kertulla, which explains our situation, and a copy of our position statement. We would certainly appreciate your assistance with the above proposed ammendment.

Sincerely,



Joe Banta, Vice-President  
Kachemak Shellfish Mariculture Association

KSMA  
Position Statement

- \*Shellfish and marine plant mariculture is the only type of mariculture supported by KSMA.
- \*Shellfish and marine plant mariculture is a low impact, low tech method of mariculture that is absolutely dependent upon clean and unpolluted waters.
- \*KSMA is committed to mariculture that is not detrimental to the surrounding marine environment.
- \*KSMA supports an industry that is based upon the concept of small, artisanal, co-op organisations with membership composed of local residents.
- \*KSMA board members all hold college degrees in biological sciences, and work in the fields of fisheries and marine biology.
- \*KSMA board members are environmentally concerned citizens. One member is on the board of directors for the Northwestern Region of the National Wildlife Federation, another is on the board of directors of Trustees for Alaska, and the other two are members of Alaska Center for the Environment.
- \*KSMA believes that shellfish and marine plant mariculture is compatible with state park guidelines, when it is carefully planned and located.
- \*ADF&G's Habitat Division has determined that Halibut Cove Lagoon is one of the best places in Kachemak Bay for minimizing user conflicts, and this is due to the fact that the Division of Parks did a long carefully planned analysis when they located the site in Halibut Cove Lagoon.
- \*Because shellfish and marine plant mariculture is totally dependent upon pristine water, the industry can be an ally to those concerned about potential pollution from sources such as mining, logging, and petroleum development.
- \*There is a great deal of educational value in shellfish and marine plant mariculture, as it combines the concepts of growing organisms together with the complexity of the marine environment. These are two areas that would be of great interest to students or park visitors. This type of mariculture also reinforces the importance of protecting our waters from pollution. KSMA would welcome educators interested in using facilities for educational purposes.
- \*KSMA is establishing operating standards for all its members who are permitted to operate within Kachemak Bay State Park so as to provide a self policing mechanism which promotes the lowest impact on a visual and biological level.

Kachemak Shellfish Mariculture Association  
12304 Hilltop Drive  
Anchorage, Alaska 99515

March 10, 1990

Senator Jay Kertulla  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Kertulla,

The members of Kachemak Bay Shellfish Mariculture Association (KSMA) are continuing to work toward resolving the issue of shellfish mariculture compatibility with Kachemak Bay State Park. We would like to inform you that the Kenai area superintendent of the Division of Parks and Outdoor Recreation's Kachemak Bay State Park has decided not to reissue, beyond Nov. 1990, the mussel mariculture permits that have been located and permitted within the Kachemak Bay State Park's Halibut Cove Lagoon for the past two years. This is being done even though the Park actively advertised for applicants and encouraged entrance into the area. Furthermore, the cultivation of mussels was going on in the Halibut Cove location even before the park was given jurisdiction of the waters due to the rich, world class nature of the area's waters. This decision has been made without any communication between mariculturists and the park and with little justification as to the reason why. Out of all the comments received in the visitor log at the ranger cabin in Halibut Cove Lagoon during the past two years, only one had any negative comments regarding mariculture.

We would appreciate your assistance in preserving our fledgling industry in which we have invested thousands of dollars per permittee along with countless hours of work. We are still seeking legislation which would mandate the compatibility of shellfish and marine plant farming with only the twenty acre portion of the park where we are currently operating. This is the small portion of Halibut Cove Lagoon which has been set aside after careful study by both ADF&G's Habitat Division and DNR's Division of Parks. We have no interest in mandating compatibility for the entire park but only would like to preserve our small area where we have been for years.

KSMA recently met with DNR Commissioner Lenny Gorsuch, and representatives from DNR's Division of Land and Water Management and Division of Parks on March 5th. In that meeting DNR and KSMA's board of directors came up with a legislative change which DNR would support and which both DNR and KSMA believe would ammend the situation.

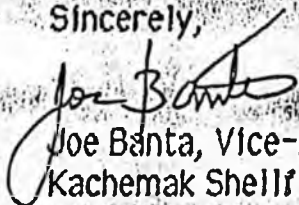
The change would involve a simple one paragraph change to the existing Kachemak Bay State Park bill. The basic form is as follows:

The Department of Natural Resources is authorized to set aside up to twenty acres of Halibut Cove Lagoon for shellfish mariculture in accordance with AS 38 (Existing mariculture regulations).

We believe a variation of this sentence could be added to the legislation authorizing purchase of the Seldovia Native Association lands. Perhaps there is other legislation which this could be added to and would work as well.

The business of growing shellfish is what got KSMA members together, from Homer to Halibut Cove to Anchorage, and we would much rather be doing that rather than politicking. Although we do appreciate the opportunity to work with you, we are losing valuable seasons of work on the biological portion of our business. This problem has put the shellfish mariculture industry in Southcentral Alaska back a good two years. KSMA would appreciate your assistance and if we we can provide any additional information, please let us know. Similar letters have been sent to Representative Mike Navarre and Senator Paul Fischer.

Sincerely,



Joe Banta, Vice-President  
Kachemak Shellfish Mariculture Association

Kathy  
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MAR 12 1990

Kachemak Shellfish Mariculture Association  
12304 Hilltop Drive  
Anchorage, Alaska 99515

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Juneau, Alaska 99811

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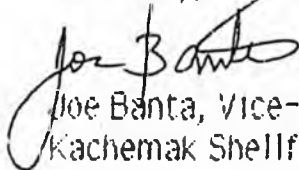
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Kachemak Shellfish Mariculture Association

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3.27.90

APR 2 1989

Dear Betty,

The following issues address the realities of the Kachemak Bay State Park. How much it cost the state per visitor in the Kachemak Bay State Park, how many are targeted for land use and how many are fishing in the saltwaters of the park, and what services are supplied by state parks for each of the interest groups.

Persons targeted for land use, hiking, glacier climbing etc. I will be using numbers taken by charter boats only. Because of our extreme tide and weather problems people seldom leave boats unattended.

Water taxi-----	1988-360	1989-309
Lodge -visitors---	1988- 72	1989- 72
Misc. -----	1988-100	1989- 75

Total land traffic-----	1988-532	1989-456
-------------------------	----------	----------

Motor boat traffic specifically headed for park waters not passing through to get to a summer cabin or residence, and kayaks. This is information from A.D.F. & G.

Claming by charter-	1989--120	1989---70
Tutka bay hatchery-	1988-2575	1989-3000
H.C. lagoon Kings--	2600	2200
Chinapoot Reds----	1200	1200

Humpy Creek -- very little activity

(these I believe are slightly high numbers just by comparing H.C. Lagoon with local opinion)

Kayaks who traveled, without water taxi, from Homer		
	1988-75	1989-120

Total Marine traffic	1988-6570	1989-6590
----------------------	-----------	-----------

The actual mail survey shows approximately 11,000 finfish participants and 9,000 shell fish participants in Kachemak Bay, however, these two numbers probably have at least a 90% overlap. Of course Not all of the above are targeted for the KBSF. These are 1987 numbers so they may be off, if anything high.

Numbers of persons taken to the park is from information from actual charter persons.

-----Total traffic in the Kachemak Bay State Park-----		
	1988=7102	1989=7046

What does the ranger offer in terms of service to these visitors?

Trail enhancement-most park trails were built by locals over the years, and by the 4H kids. Trail system is confined to the Halibut Cove area. Refer to Exhibit (B)

Emergency assistance- It is difficult to reach the ranger by radio or boat because of location. Of course boat breakdowns are taken care of by RESQUE 21, and /or locals.

Informing visitors of dangers in the park. There is no information concerning the very dangerous tidal lagoons in the park. There basically is no verbal information unless you get into H.C. Lagoon, one of most dangerous lagoons in the Bay.

The ranger checks for fishing licenses in H.C. lagoon. That fishery is over the end of June.

Actually meeting a ranger on one of the Grewink Glacier trails would be unusual because their whaler is too large to be safely left beached. This confines the ranger to the lagoon trail system which get about 50-100 visitors per year, highest percent of traffic going to the Grewink Glacier area.

Information offered in Park Brochure pertains to land use only. The ranger himself is no seaman and seems oblivious to the dangers on the sea. Perhaps because he is operating a \$50,000 whaler that was designed to be safe for anyone. He is also hauling park voluneers, people who simply need a ride, and other rangers for free and with no Coast Gaurd liscense.

The Kachemak Bay State park cost the people of the state a very tidy sum of money.

Two boat stalls in the Homer harbor-----	888.30
This isn't extra trancient fees	
1. 18' aluminum HN-3229	
2. 17'whaler AK1643k	- For one ranger-
3. 27' Blue aluminum	
Annual upkeep and deprciation would average---	15,000
Electricity at H.C.ranger cabin in 1989-----	1143.83
Jan and Feb of 1990 was	291.34
The New Ranger Cabin in H.C. lagoon -----	5000.00
Food and Fuel for Ranger &Volunteers-----	3000.00
Truck -depreciation and repairs-----	6000.00
Rangers part time salery & benefits 6 mo.----	23491.57
Hidden expenses, travel etc.-----	1000.00
Total expenses-----	55523.70
this is not including extra months or other rangers	

This looks like each visitor to the Kachemak Bay State Park costs the state of Alaska 7.88. I may remind you the

the Ranger is available to only 2300 persons so in all honesty it's 23.14 per person.

What has the Park Service actually accomplished over the past 4 years, in the KBSF? Two functioning trails were built and one of those parallels an existing trail. One other trail built up a mountain but has a dead end. Out houses were built in H.C. lagoon. Trail markers we put on all the existing trails, and annual brush out done. This cost the state approximately \$200,000 (being conservative), That is one heck of a lot of money. Many local persons would love to bid on a job like that.

Is the KBSF having a tremendous increase in traffic? NO, I feel the reason for no increase in park use is the tremendous increase in (destination) attractions around the bay. Four years ago I would have taken at least 300 people to the park many of which were student groups, large family outings, etc. There are now more accomodating facilities around the Bay. For example I have had a 40% increase in business over the past 2 years and a decrease in camper traffic. I believe this trend will continue as private enterprise developes.

Also keep in mind our adverse weather and tide conditions. The majority of use in the KBSF is on the ocean not upland streams and lakes. Because of the unique problems here on the Bay development cannot take place like it has on the Kenai river for instance, and there for should not be subject to the same type of regulation. The parks persons stated that 11 AAC.12.340 (19) was adopted to satisfy regulation needs on the Kenai river. I feel that any (Commercial) activity associated to the KBSF is incidental (for example, on a rough day a halibut charter fishing off of Glacier Spit) and should fall under -ordinary- use. If Parks wants some information from park users have questionnaires available at the Homer chamber of commerce on Homer Spit. Currently the Ranger in Homer not only is not on the Spit but several miles out of town.

The example of the over blown STING that I recieved for taking a few people to the park for free, seems to indicate a frantic need to substanciate an existence. Another perception could be that the Kenai Rangers are over staffed and have a lot of extra cash. The sting cost approximately \$20,00, involved approximately 40 persons, and 9 of the 10 Rangers from the Kenai division.

Sincerely,

*Marian T Beck*

Marian T. Beck

Marian & Beck  
Halibut Cove, AK  
99603



Bettye Fabunkan P  
Pouch V  
Juneau, AK  
99811



**S B**

**536**

BILL: SB 536

NAME:

TITLE: "An Act making a special appropriation to the Department of Natural Resources for the purchase of the inholdings of the Seldovia Native Association, and the timber rights of the Timber Trading Company, within the Kachemak Bay State Park; and providing for an effective date."

PRIME SPONSOR: RULES

BY REQUEST OF THE GOVERNOR

CURRENT STATUS: (S) FIN

STATUS DATE: 05/01/90

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	SUBJ	EXIT	MENU	TEXT	PRINT	BWD	FWD		FIRST	LAST	QUIT

SB 536 Bill/Resolution Floor Action Page 2 of 2  
 Current Status: (S) FIN

	Jrn-Date	Jrn-Page	Action
1	03/28/90	3078	(S) READ THE FIRST TIME - REFERRAL(S)
2	03/28/90	3079	(S) L&C, THEN RES, FINANCE
3	03/28/90	3079	(S) GOVERNOR'S TRANSMITTAL LETTER
4	04/26/90	3613	(S) L&C RPT CS 3DP 2NR SAME TITLE
5	05/01/90	3769	(S) RES RPT 3DP 2NR (L&C)CS SAME TITLE
6	05/01/90	3769	(S) REFERRED TO FINANCE

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	SUBJ	EXIT	MENU	TEXT	PRINT	BWD	FWD	CHT/JRNL	FIRST	LAST	QUIT

BASIS Journal Text  
 05/01/90 SB 536 SENATE JOURNAL PAGE 3769

The Resources Committee considered SENATE BILL NO. 536 (An Act making a special appropriation to the Department of Natural Resources for the purchase of the inholdings of the Seldovia Native Association, and the timber rights of the Timber Trading Company, within the Kachemak Bay State Park; and providing for an effective date) and recommended t

Offered: 4/26/90  
Referred: Resources and Finance

go0550sH

Funding Information: General Fund \$20,000,000  
Other Funds -0-  
\$20,000,000

Original sponsor(s): Rules/Governor

1 IN THE SENATE BY THE LABOR & COMMERCE COMMITTEE  
2 CS FOR SENATE BILL NO. 536 (L&C)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL  
6 For an Act entitled: "An Act making special appropriations to the Depart-  
7 ment of Natural Resources for the purchase of the  
8 inholdings of the Seldovia Native Association, and  
9 the timber rights of the Timber Trading Company,  
10 within the Kachemak Bay State Park; and providing for  
11 an effective date."

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

13 \* Section 1. LEGISLATIVE FINDINGS. The legislature finds that the  
14 Kachemak Bay State Park is an important scenic and recreational area and  
15 that the inholdings within the park, if developed, would seriously compro-  
16 mise the integrity of the existing park land. The legislature finds,  
17 therefore, that it is in the interest of the state to acquire the inhold-  
18 ings of the Seldovia Native Association, and the timber rights of the  
19 Timber Trading Company, within the Kachemak Bay State Park.

20 \* Sec. 2. The sum of \$15,490,000 is appropriated from the general fund  
21 to the Department of Natural Resources for the purchase of the inholdings  
22 of the Seldovia Native Association within the Kachemak Bay State Park, and  
23 the sum of \$4,510,000 is appropriated from the general fund to the  
24 Department of Natural Resources for the purchase of the timber rights of  
25 the Timber Trading Company within the Kachemak Bay State Park, for the in-  
26 holdings and timber rights as identified in the Preliminary Exchange  
27 Agreement dated June 30, 1989, as amended as of the effective date of this  
28 Act, between the state, the Seldovia Native Association, and the Timber  
29 Trading Company.

1       \* Sec. 3. The unexpended and unobligated balances of the appropriations  
2 made by this Act lapse into the general fund December 31, 1990.  
3       \* Sec. 4. This Act takes effect July 1, 1990.



**Purchase of Inholdings  
within  
Kachemak Bay State  
Park**

**HB 590  
SB 536**

**N** Location Map

1"=approx. 18 mi.



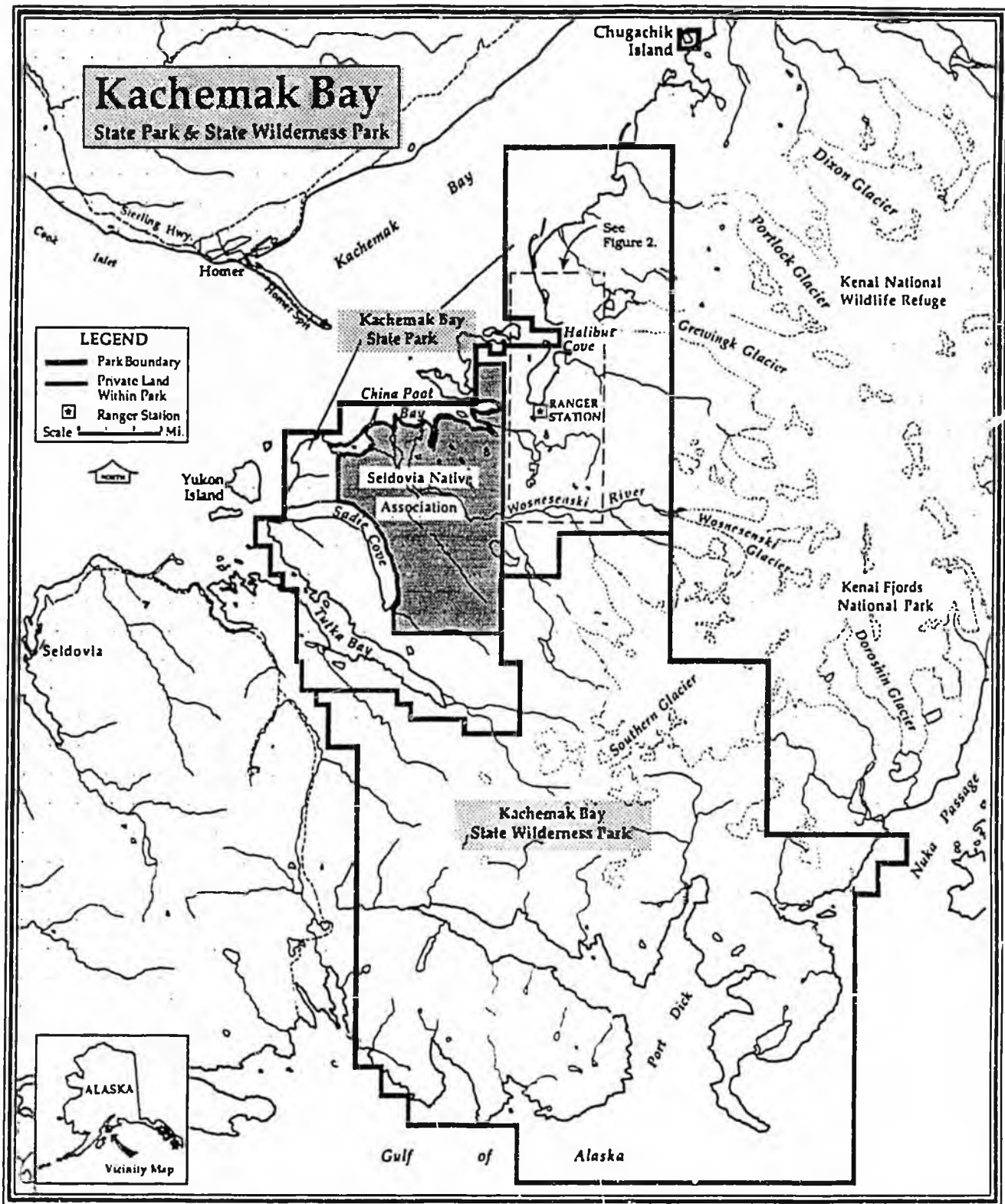


Figure 1.

## History:

Kachemak Bay State Park was created by the Alaska Legislature in 1970. The following year, the U.S. Congress passed the Alaska Native Claims Settlement Act (ANCSA), which entitled Alaska Natives to receive land as settlement of aboriginal land claims (including federal lands that had already been transferred to the state).

SNA selected and received title to over 29,000 acres of its ANCSA settlement from lands within Kachemak Bay State Park. The SNA selections included key coastline and other high public use areas, including lands near China Poot Bay, one of the most beautiful and accessible sites within the park.

In 1979, a Memorandum of Understanding between SNA and the state Department of Natural Resources (DNR) was executed. Among other things, the memorandum committed the state and SNA to exchange SNA's park inholdings for state land of equal value.

In 1983 and again in 1985, the state and SNA successfully completed two small land exchanges. Two larger exchange attempts were unsuccessful, and further negotiations waned. At this writing, SNA still owns 23,642 acres within the park.

## Recent Developments:

Roughly two years ago, it was disclosed that SNA had sold timber cutting rights on 15,400 acres of its park inholdings as well as other nearby SNA land to Koncor Forest Products Company, through its subsidiary Timber Trading Company (TTC).

With a twelve year timber harvest contract (from May 30, 1987 until April 30, 1999), TTC planned to begin logging operations in the near future. These plans dismayed a number of people who appreciate the recreational and scenic values of Kachemak Bay State Park, and who want to see the integrity of the park preserved.

Almost immediately, a statewide grass roots effort to revive the trade started, and a new round of negotiations began. Participants included representatives from DNR, SNA, TTC, members of the Kachemak Bay Citizen's Coalition, and local representatives.

The first step in the revived exchange process was to assemble a pool of state land to offer SNA. Once DNR completed this, the next step was an appraisal of SNA's land within the park.

An independent appraiser, under contract to SNA, arrived at two different values for SNA's property within the park, depending on the potential for timber harvest was treated: \$22.7 million and \$25.6 million. Market value of timber was considered in addition to this, and at one point, the total value of the inholdings was estimated to be in the area of \$32 million.

DNR officials disagreed with the methods used by SNA's appraiser, maintaining that these values were not substantiated. DNR then contracted for its own independent appraisal, which placed the land values at \$12 million. SNA disagreed with this value.

In February, an arbitration panel of three independent appraisers was selected by DNR and SNA to review the appraisals and render an opinion of the value of SNA's property. Though SNA agreed to the panel, it did not agree to be bound by the panel's results.

After some deliberation, the panel concluded that the value of SNA's land, with the timber left in place, was \$17.82 million. If timber on a portion of those lands were harvested, the value

for the land alone ranged from \$11.62 to \$15.49 million, depending on what assumptions were made regarding the impact of any potential timber harvest. SNA still felt these values were too low, but agreed to negotiate.

After an exchange of offers and counter-offers, an agreement was reached on February 28, 1990. Under the terms of this accord, the state declared its willingness to purchase the balance of SNA's lands within Kachemak Bay State Park for \$15.49 million. Though the figure is at the high end of the arbitration panel's valuation, DNR concedes that it is a very difficult parcel to appraise. SNA has assented to this price only if the state makes an outright purchase of the property, not an exchange of land.

## **Timber:**

TCC's timber within the park has been recently appraised as having a market value of \$6.4 million, and the DNR has been working on state acquisition of TTC's timber within the park through an equal value timber exchange. State timber available for an exchange is limited. After considerable effort, TTC and the state agreed on two suitable parcels for an exchange: one near Thorne Bay on Prince of Wales Island, and the other at Frederick Point on Mitkof Island, near Petersburg.

The Thorne Bay timber is primarily red cedar (44%) and western hemlock (41%), with some Sitka spruce (11%). At this time, market prices for red cedar are dropping, and it is expected this trend will continue. This price drop has affected negotiations between the state and TCC. Additionally, there is some objection by Thorne Bay residents to harvest in this area, though such objection may be lessened if harvest would result in construction of a road to Tolstoi Bay.

The Mitkof Island parcel is composed mainly of western hemlock (61%) and Sitka spruce (36%). The timber values are high, and the market for hemlock & spruce appears to be relatively stable. However, substantial portions of Mitkof Island have already been harvested, and there is strong objection by Petersburg residents to any further harvest.

In light of the political reality that without approval from area residents, any exchange of timber (and subsequent harvest by TTC) of the Thorne Bay and Mitkof Island areas will be very difficult to accomplish, another option has been chosen: the cash purchase of TTC's timber within Kachemak Bay State Park.

## **Legislation:**

House Bill 590 (and a Senate companion bill, Senate Bill 536) was introduced by the Governor on March 28, 1990. The measure provides an appropriation of \$17.82 million for the outright purchase of both land and timber inholdings within Kachemak Bay State Park.

## **What the State will Gain:**

Seldovia Native Association's 23,642 acres are in the center of Kachemak Bay State Park, lying south and east of China Poot Bay, and extending southward to Sadie Cove. This comprises the "heart" of the park, and is noted as one of the most beautiful scenic areas in the state. Because of its high recreational values as well, state acquisition of these inholdings will protect and preserve the integrity of the park for generations to come.

## Scenic and Recreational Values

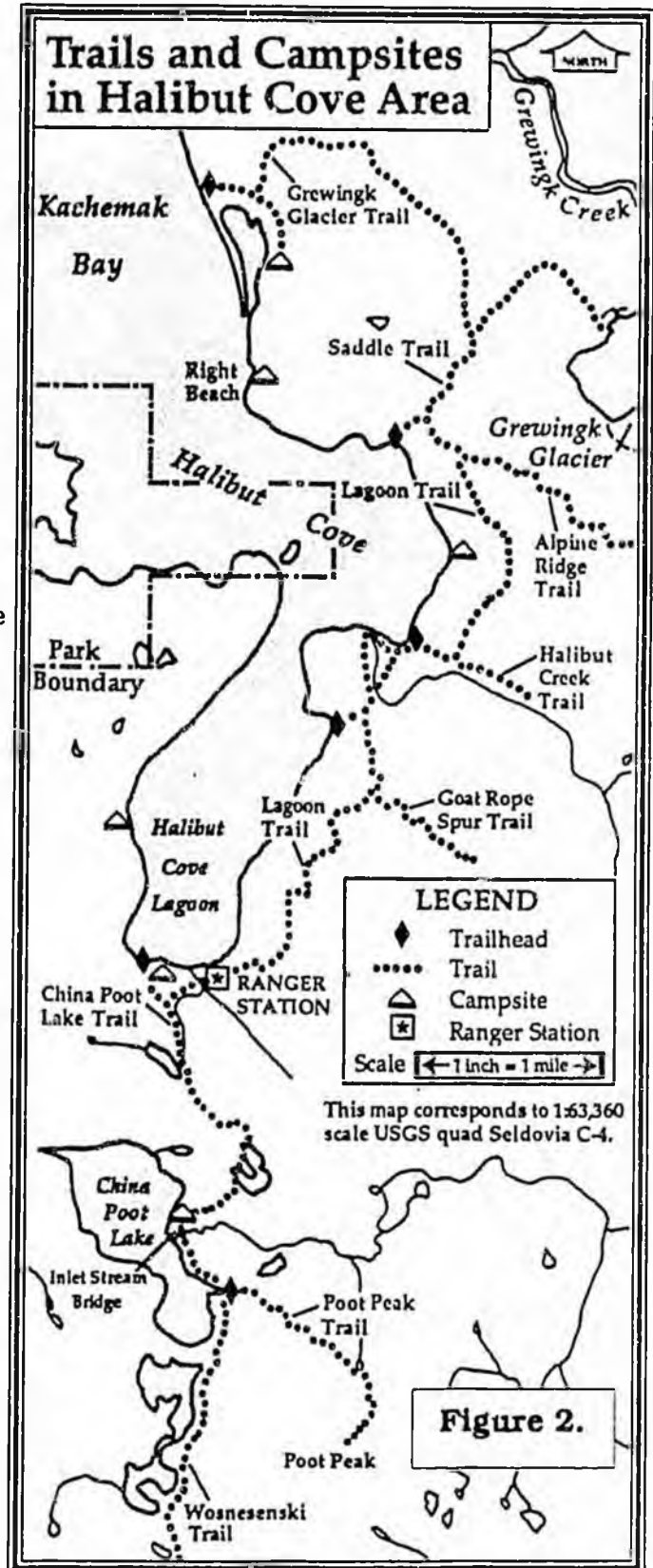
A large portion of SNA's park inholdings are highly visible from Homer and the Homer Spit, with China Poot Bay being the centerpiece for this breathtaking tableau. A photograph of China Poot, taken from the Homer side, was used by the Nation Geographic Society in its 1990 calendar, "Seashores of the World." The proposed timber harvest would include most of these scenic uplands.

Scenic flights and fly-in fishing trips are conducted by at least two Homer based flight services, and there are numerous charter boat operators offering scenic and fishing tours of the area. A major commercial lodge is located at China Poot Bay, directly across from SNA's land, and the Center for Alaska Coastal Studies is located on the Island Peninsula between Peterson Bay and China Poot Bay. There are smaller lodges, private residences and cabins located along Peterson Bay, Neptune Bay, Sadie Cove and Halibut Cove. Most park users feel strongly that any logging of this pristine area would threaten the primary uses of the park, which are based on fishing and tourism. The common focus of the Homer and Kachemak Bay communities is to enhance and encourage greater recreational opportunities, while retaining the wilderness values of the park.

Most recreational use of Kachemak Bay State Park is concentrated on or adjacent to water - pleasure boating, sport fishing, clam digging, kayaking, crabbing, shrimping, beachcombing, photography, scuba diving and wildlife observation. Visitor use figures for Kachemak Bay State Park are hard to determine, and are incomplete, but annual visitor use day counts taken during periods from 1982 to 1989 range from 21,444 ( seven-month period in 1982) to 27,134 ( four-month period in 1987). A visit to the bay on any summer day makes it obvious that the park is one of the most heavily used recreational areas in southcentral Alaska.

Since many beach areas provide firewood, tent sites, and occasional drinking water, they are important focal points for recreational activities, including picnicking, camping and hiking. Many of the existing trailheads in the park (see Fig. 2) are located on beaches, and thus are entry points for other upland activities - hunting, backpacking, mountaineering and skiing. As the trail system improves, backpacking is becoming more popular, and improved access has spurred an increase in mountaineering and skiing on the park's many snowfields and glaciers.

Natural fish runs, combined with Dept. of Fish & Game enhancement programs, provide fishing opportunities that attract large numbers of both sport and commercial fishermen to Kachemak Bay waters.



APR 18 1990

**KACHEMAK BAY STATE PARK CITIZENS ADVISORY BOARD**

**DAVID STUTZER, CHAIRPERSON**

**P.O. Box 2296  
HOMER, AK 99603**

April 12, 1990

Senator Bettye Fahrenkamp  
P.O. Box V  
Juneau, AK 99811

Dear Senator Fahrenkamp,

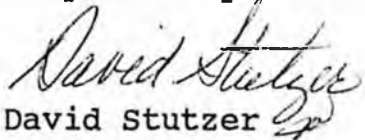
We, the Kachemak Bay State Park Citizens Advisory Board, urge you NOT to support Senate Bill 528, a bill written to set aside 20 acres of Kachemak Bay State Park for commercial mussel mariculture. AS 41.21.130 - 41.21.134 explicitly prohibits incompatible commercial use in a state park. This bill was designed especially to circumvent Alaska statute. Senate Bill 528 sets a dangerous precedent with respect to the integrity of all of Alaska's state parks. Instead of addressing the larger question of what constitutes an incompatible commercial use, the supporters of this bill are creating one small loophole that may be used later to justify other special exceptions.

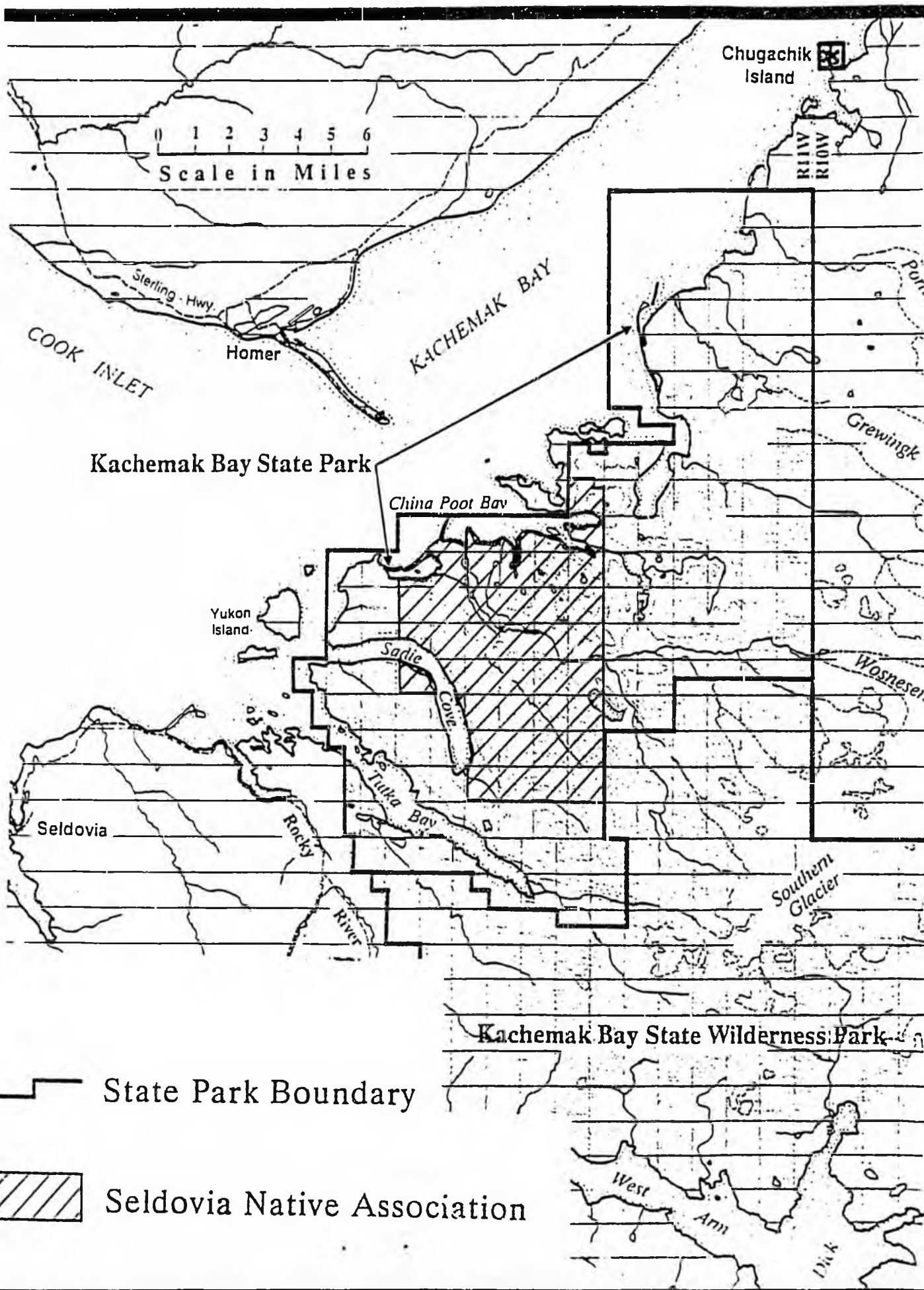
Although none of the Kachemak Bay State Park Citizens Advisory Board members are against mussel mariculture, the Board has for the last three years opposed the issuance of permits for commercial shellfish mariculture. Last year the Advisory Board was unanimously resolved against the continuation of these permits in Kachemak Bay State Park.

Citizen involvement is essential in our parks planning process. This bill has been supported by DNR, the Alaska State Chamber of Commerce and the Kenai Peninsula Borough with NO public hearing and without any notification to the Kachemak Bay State Park Citizens Advisory Board. As such, support of this bill by these agencies is an insult to Park Advisory Boards across the state and to our park management plans.

State parks are designated to protect public lands - they should NOT be chopped into little pieces to accommodate special commercial interests, incompatible with natural resource management and recreation. Senate Bill 528 erodes the integrity of Kachemak Bay State Park and Alaska's parks statewide and should not be supported.

Respectfully submitted,

  
David Stutzer  
Chairperson



Kachemak Bay State Park

KACHEMAK BAY

COOK INLET

Homer

Sterling Hwy

Chugachik Island

RIVER RIVER

China Poot Bay

Yukon Island

Sagle Cove

Tulla Bay

Seldovia

Rocky River

Southern Glacier

Kachemak Bay State Wilderness Park

State Park Boundary

Seldovia Native Association

West Arm

Tlik

Thanks: Deb Robertson, Box 110, Seldovia, AK 99663

Please Keep Powder Island!

I am a resident of Seldovia and am  
 a wilderness lodge on Seldovia Bay.  
 Powder Island is of major concern to me  
 and many of my neighbors. We fully support  
 placing Powder Island in the Kachemak Bay  
 State Park. This island is unique with many  
 beaches, eagles and at low tide it is not  
 an island but connected to the mainland.  
 Powder Island Cove that surrounds Powder  
 Island is special to everyone in Seldovia. If  
 you give SNA the island you will be sorry.  
 SNA has been hard on the national resources  
 of this area - clearcutting, gravel extraction  
 and really aren't capable of being the steward  
 of such a special island.

3-29-90

Powder Island at low tide



APR 4 1990

P.O. BOX 110  
Seldovia, Alaska 99663  
(907)234-7858

CRONK & HOLMES  
Consulting Foresters

Alton G. Cronk  
Richard W. Holmes

6936 N.E. Halsey Street  
Portland, Oregon 97213  
Telephone (503) 256-3840

August 22, 1989

Mr. Charlie Nash  
Timber Trading Company  
3501 Denali, Suite 202  
Anchorage, Alaska 99503

Dear Mr. Nash:

You have requested my opinion of the fair market value of timber owned by Timber Trading Company in the Kachemak Bay area as of June 30, 1989.

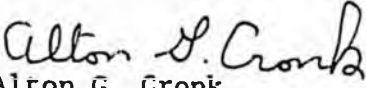
The fair market value is described as the price that would be paid for the subject timber that is exposed to the market for a reasonable length of time, and that price which would be agreed upon by a seller and buyer, both of whom are equally informed and have reasonable knowledge of the facts concerning the subject timber and both of whom are willing, but under no compulsion, to buy or sell.

You have furnished me with certain records concerning the subject timber including indications of quality and type as well as logging conditions. In arriving at the opinion of fair market value, I have personally inspected the area. My general knowledge of the area, timber types, terrain, local conditions and markets was also of value in arriving at this opinion of value.

After taking into account all of the timber valuation factors herein mentioned, as well as other factors not specifically mentioned, it is my opinion that the fair market value of the Timber Trading Company timber in the Kachemak Bay area at June 30, 1989 is:

<u>Species</u>	<u>Volume MBF</u>	<u>\$/MBF</u>	<u>Total Value</u>
Spruce	44,987	\$165	\$7,422,855

Sincerely;  
CRONK & HOLMES

  
Alton G. Cronk



Forest Consultants • Industrial Appraisers

March 21, 1990

Mr. Charles Nash  
Timber Trading Company  
3501 Denali, Suite 202  
Anchorage, Alaska 99503

Re: Kachemak Bay Timber Appraisal

Dear Mr. Nash:

At your request we have appraised the subject timber in the Kachemak Bay Tract owned by Timber Trading Company as to its fair market value. The date of valuation is March 12, 1990. The subject timber consists of sitka spruce and cottonwood on lands near Homer on the Kenai Peninsula. The timber is appraised as an unencumbered fee simple interest. The total estimated fair market value is

FIVE MILLION EIGHT HUNDRED SEVENTY-FIVE  
THOUSAND DOLLARS  
(\$5,875,000)

This appraisal utilized information and data provided by you and the State of Alaska in regards to timber volume within the tract. Log sales data, logging cost, and road construction cost data are based on information from Alaska timber industry sources. Information was also utilized which was provided by persons and/or firms listed in the Addenda. The information provided is believed to be reliable, but no responsibility is assumed for its accuracy.

In developing our opinion, we have made a personal inspection of the subject property. We have reviewed the operating costs, log and timber sale information, and timber marketing conditions as they pertain to the subject property market area.

503/682-3766

PARK PLACE BUILDING SUITE A • 30470 SW PARKWAY AVENUE  
PO BOX 423 • WILSONVILLE OREGON 97070

Mr. Charles Nash  
March 21, 1990  
Page Two --

This appraisal and its use are subject to the contingent and limiting conditions and the certification listed in the Addenda. This letter serves to introduce the appraisal report which follows. The appraisal procedures are described in that report.

Sincerely,

CASCADE APPRAISAL SERVICES, INC.

*Ray E. Granvall, Jr.*

Ray E. Granvall, Jr.

*Larry L. Ismert*

Larry L. Ismert

REG:db

Charles E. Nash  
General Manager  
Timber Trading Company  
3501 Denali, Suite 202  
Anchorage, Alaska 99503

March 21, 1990

Mr. Joseph F. Wehrman III  
Chief Resource Management  
State of Alaska  
Department of Natural Resources  
Division of Forestry  
3601 C Street, Suite 1008  
Anchorage, Alaska 99503

Re: Kachemak Bay Timber Appraisal

Dear Messrs. Nash and Wehrman:

At your request we have estimated the fair market value of the Kachemak Bay timber tract owned by Timber Trading Company. The date of valuation is March 12, 1990. The subject timber consists of Sitka spruce and cottonwood on lands near Homer on the Kenai Peninsula. The timber is appraised as an unencumbered fee simple interest. The total estimated fair market value is:

Six Million Four Hundred Thousand Dollars

(\$6,400,000)

In developing our opinion, we have made a personal inspection of the subject property. We have reviewed the operating costs, log and timber sale information, and timber marketing conditions as they pertain to the subject property market area.

We thank you for this opportunity to serve you.

Sincerely,



Alton G. Cronk  
Cronk and Holmes Consulting Foresters



Ray E. Granvall, Jr.  
Cascade Appraisal Services, Inc.

## CRONK &amp; HOLMES

Consulting Foresters

1215 N. ADAMS STREET

P.O. BOX 978

MCMINNVILLE, OREGON 97128

ALTON G. CRONK  
RICHARD W. HOLMESTELEPHONE (503) 434-7240  
FAX (503) 434-7272

April 2, 1990

Mr. Charles E. Nash  
General Manager  
Timber Trading Company  
3501 Denali, Suite 202  
Anchorage, AK 99503

Re: Kachemak Bay Timber Appraisal

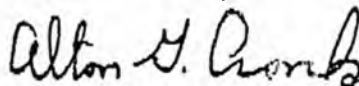
Dear Mr. Nash:

It is the opinion of the appraisers, Alton G. Cronk of Cronk & Holmes Consulting Foresters, and Ray E. Granvall, Jr. of Cascade Appraisal Services, Inc. that the fair market value of the Kachemak Bay timber is \$6,400,000 on March 12, 1990.

It is our opinion that this is the price that a willing buyer would pay for this timber if it was placed in the market place as an unencumbered fee simple interest.

Sincerely,

CRONK &amp; HOLMES



Alton G. Cronk

AGC:j11

Chronology of Timber Offered by The State of Alaska to Timber Trading Company

- November, 1988 Director of Division of Land and Water Management in conjunction with Southeast Regional Office of Division of Forestry offers timber near Chilkoot Lake near Haines. Timber Trading Company using staff personnel and consultants examines and cruises this timber. Timber Trading Company is subsequently informed that the timber is in the Mental Health Trust and is unavailable.
- Spring 1989 Timber Trading Company using staff and consultants cruises its timber at China Poot Bay
- Summer 1989 Timber Trading Company travels to Fairbanks on two separate occasions to examine possible timber selections by airplane. Timber observed in first trip is of interest but Timber Trading Company is subsequently informed that it is part of Mental Health Trust portfolio and is not available. A portion of the timber observed on the second trip located near the confluence of the Kantishna River and the Tanana River is of interest.
- Timber Trading Company, using staff and consultants cruises the timber near the Kantishna River. This timber is subsequently withdrawn by the State due to political pressure.
- Timber Trading Company surveys by air the timber offered by State of Alaska on west side of Cook Inlet and in vicinity of Moose Pass. This timber is of questionable merchantability and of very low value.
- Timber Trading Company using consultants cruises timber on Mitkof Island near Petersburg and near Thorne Bay on Prince of Wales Island. Appraisal, firm of Cascade Appraisal Services subsequently appraises the Mitkof Island and Thorn Bay timber.
- October 1989 Appraisal firm of Cronk and Holmes completes appraisal of Timber Trading Company timber at China Poot Bay values this timber at 7.4 million dollars. Al Cronk and Charles Nash travel to Juneau to discuss appraisal with Division of Land and Water Director, Gary Gustafson and S.E. Regional forester, McAllister. State unwilling to accept appraisal value.
- March 1990 Agreed to arbitration process using Cascade Appraisal Services and Cronk and Holmes results in a value of 6.4 million dollars for the China Poot Bay timber. Upon learning of State's reluctance to convey timber near Petersburg or to fairly value timber at Thorne Bay, John Sturgeon, Chairman of Timber Trading Company agrees to take 4.5 million dollars cash for Timber Trading Company's China Poot Bay timber.

HISTORY OF KACHEMAK BAY STATE PARK  
LAND AND TIMBER ACQUISITION

- 1970 Alaska State Legislature establishes Kachemak Bay State Park.
- 1971 Alaska Native Claims Settlement Act is passed, entitling Seldovia Native Association (SNA) to select 69,000 acres in the Seldovia area.
- 1974 SNA attempts to select lands in the Jackalof Bay area. State protests those selections, and SNA is forced to select 30,000 acres within the boundaries of the Kachemak Bay State Park.
- 1975 Governor Hammond agrees that the State should work with SNA to accomplish a land trade for SNA's park inholdings.
- 1976 The State Department of Fish and Game begins using SNA's park inholdings for a sport fishery project. Pursuant to this project, there is extensive public use of SNA's property, despite the fact that SNA has never authorized such use by the State or the public.
- 1979 A Memorandum of Understanding is signed between the State, SNA, and other parties which contemplates that the State and SNA will formulate a land trade for SNA's park inholdings.
- 1979-1985 Two small trades encompassing about 5,000 acres of SNA's park inholdings are accomplished. Further trades are not accomplished because of (1) disagreements on the value SNA's park inholdings; and (2) a rapidly shrinking pool of State lands which would be available for trade. Some attractive State lands are diverted to local governments, some are removed from consideration by the CIRI land trade, and some are removed from consideration by in-house decisions at the State Department of Natural Resources.
- Spring 1987 Negotiations for a land trade again break down. Senator Paul Fischer introduces a bill to purchase SNA's park inholdings. This bill does not pass.
- 1987 Due to lack of interest by the State in purchasing SNA's inholdings, SNA makes plans to utilize the property to produce corporate benefits for its shareholders. SNA sells the commercial timber on portions of its inholdings to Timber Trading

Company (TTC), a subsidiary of KONCOR Forest Products Company.

1988 Citizens learn of proposed logging on SNA's park inholdings and request action from the State.

October 1988 State approaches SNA and TTC and proposes a three party exchange. The State will exchange land for land with SNA and timber for timber with TTC.

June 1989 Parties sign Preliminary Exchange Agreement describing appraisal process and mechanism for creating replacement pools of land and timber.

Summer 1989 TTC completes a timber cruise and appraisal of its timber. Timber is valued at \$7.5 million dollars.

Summer to Fall 1989 TTC, SNA, and State attempt to develop replacement pools of State land and timber. State has great difficulty finding sufficient land or timber to equalize values with SNA or TTC. State never does identify lands with a value equal to SNA's park inholdings. State is only able to find two tracts of replacement timber, both in Southeast Alaska. One is near Petersburg and one is near Thorne Bay.

September 1989 SNA's appraiser, chosen from a list approved by the State, values SNA's inholdings (without TTC's timber) at \$25.6 million. State objects to this appraisal.

November 1989 SNA is satisfied with original appraisal but requests appraiser to redo the appraisal solely to satisfy the State. Supplementary appraisal values SNA's lands (without TTC's timber) at \$22.7 million.

Fall 1989 - Winter 1990 Petersburg residents object to inclusion of Petersburg timberlands in the replacement pool. Additional analysis of Thorne Bay timberland reveals a problem with the valuation of its Western Red Cedar, a species with rapidly declining market value. Moreover, Southeastern residents assert that Thorne Bay timber should be used for trading stock to acquire park lands in Southeast.

January 1990 State hires an appraisal of SNA's lands, which values the land at \$11.9 million. SNA objects to this appraisal.

February 1990 State hires a panel of three appraisers to give a review of earlier appraisals. It is agreed that

this panel's findings are solely for the benefit of the State and are not binding on SNA. Panel concludes the value of SNA's lands without TTC's timber to be \$15.49 million.

- February 1990 SNA is unwilling to exchange its lands for State lands worth less than an aggregate of \$20 million. State land pool is nowhere near this large. State and SNA agree to a cash payment of \$15.49 million for SNA's park inholdings.
- March 1990 TTC and State unable to agree on a value for TTC's timber. Parties agree to arbitrate, and the arbitrators value the timber at \$6.4 million.
- March 1990 Because the State's only replacement timber is at Petersburg (politically unpopular) or Thorne Bay (economically unacceptable due to heavy percentage of low value red cedar, and politically unpopular if used to acquire park lands outside of Southeast Alaska), State and TTC agree to a \$4.5 million cash buy-out for timber.
- Week of March 26, 1990 Bill providing for cash purchase of SNA's park inholdings and TTC's timber is introduced by Governor Cowper.

SIGNIFICANT POINTS, KACHEMAK BAY  
STATE PARK LAND AND TIMBER ACQUISITION

- \* SNA is a Native village corporation organized pursuant to ANCSA. Its 24,000 acres of park inholdings are lands that have been used and occupied by the Native people of Seldovia for subsistence activities since time immemorial.
- \* SNA's park inholdings are located in the heart of Kachemak Bay State Park. They are directly across the bay from Homer, and are the centerpiece of the view of the park which the public enjoys from Homer. TTC's timber is all Sitka spruce for which there is currently a very strong market.
- \* Since 1975, the State and SNA have been discussing the possibility of the State's acquiring SNA's inholdings. On at least three occasions, negotiations between the parties have broken down. This is the first time that the State and SNA have agreed upon the terms of an acquisition.
- \* TTC acquired most of the commercial forest on SNA's park inholdings in 1987. Ever since, TTC has refrained from logging its holdings because of State requests for a park trade. If TTC's timber is not purchased by the State this year, TTC cannot afford to wait any longer to receive a return on its investment and must commence logging operations. This is the State's last opportunity to obtain the SNA inholdings in pristine condition.
- \* The State has not been able to identify sufficient replacement lands to equal the value of SNA's inholdings. The inadequate replacement lands which have been identified have not been the subject of public hearings. Public objection to many of these lands at the hearings is likely, further shrinking the pool. Replacement timber has been located in only two places, both in Southeast Alaska, and is politically undesirable, economically undesirable, or both.
- \* Both SNA and TTC depend on money generated by leases of land and sales of timber for revenues used to fund programs for the shareholders of these companies.
- \* Both SNA and TTC are responsible land managers with successful track records of recreational lot development and leasing (SNA) and timber management and harvesting (TTC). TTC and its parent company recently received an award from the Governor for excellence in land and timber management.
- \* Because of the way that the sale of SNA's park inholdings will divide up its remaining lands and the remaining timber sold to TTC, both SNA and TTC will be left with isolated parcels which will be difficult if not impossible to develop. However, in the interest of completing the acquisition, SNA and TTC are prepared to accept this consequence.

Homer East Base  
Coal Point

Shoals

Ismailof Island  
Landing Strip

Gull Island

Peterson Pt

Agrova

+

+

Peterson Bay

OUT  
OUT  
13

Lancashire Rock

McKeon Rock

CHINA POINT BAY

Mut

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Neptune Bay

Cabin

220

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and  
Anisom Pt

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SADIE COVE

KACHEMAK BAY

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**S B**

**544**

# MEMORANDUM

# State of Alaska

TO: Gerald Gallagher  
Director  
Division of Mining  
Department of Natural Resources

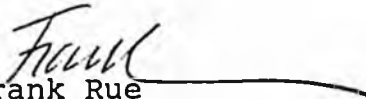
DATE: April 10, 1990

FILE NO:

TELEPHONE NO: 465-4105

THRU:

SUBJECT: SB 544:  
Reclamation  
Legislation

FROM:   
Frank Rue  
Director  
Habitat Division  
Department of Fish and Game

The Alaska Department of Fish and Game (ADF&G) has completed an analysis of SB 544 and prepared the enclosed recommendations for development of a state resource agency position on the bill. I was disappointed to hear that you did not mention these issues at the Senate Resources Committee hearing on April 9 as we had agreed you would.

As you are aware, the Senate Resources Committee's draft bill contains the following provisions:

1. Requires reclamation for all mining and sand and gravel developments; subject to a small mine exclusion for operations disturbing less than five acres or removing less than 1,500 cubic yards in any one year.
2. Extends reclamation requirements to state, federal, and private land; subject to a grant of authority to enter into cooperative management agreements.
3. Requires submission and approval of a site-specific reclamation plan before mining may commence.
4. Establishes a maximum bond ceiling of \$750 for each acre of land subject to the reclamation plan.
5. Establishes an "undue or unnecessary degradation" and return to "stable condition" performance standard for reclamation. This standard parallels the existing BLM standard.

2 ✓ We strongly support inclusion of sand and gravel mining operations based on their similarity to placer mining operations and the strong potential for beneficial fish and wildlife habitat enhancement upon reclamation.

We also support extension of state reclamation requirements to state, federal, and private land. There are substantial advantages to adopting a uniform state program which avoids piecemeal regulation. Under cooperative agreements authorized by the draft bill, the BLM, USFWS, USFS, and NPS could continue to assume responsibility for administration of the reclamation requirements on federal land, so long as their program was as stringent or more stringent than state requirements.

We further support establishing a statutory framework based on site-specific reclamation plans rather than prescribing state-wide technical performance standards. We believe site-specific plan development will maximize fish and wildlife habitat protection and enhancement while minimizing reclamation costs for the minerals industry.

We concur with the proposed bonding approach requiring bonding if DNR determines that an operator has failed to follow an approved plan. The 6i legislation required future bonding in those instances. Given the economic realities of securing bonding for small operators, this approach grants DNR the flexibility and authority to firmly deal with problem operations without imposition of economic hardships on the major segment of the industry who are complying with reclamation requirements.

Notwithstanding this support, we believe the draft reclamation bill needs strengthening in the following areas:

1. Enforcement. Specific criminal and civil penalty provision granting DNR enforcement jurisdiction are needed. DNR's existing enforcement authorities are extremely limited and cumbersome. Under existing authorities, blatant violations have taken years to legally resolve.

Under the draft bill, DNR has two enforcement options: (a) initiate permit revocation proceedings under AS 44.62, or (b) require bonding for all subsequent operations. With a \$750/acre ceiling on bonding, the threat of bonding is a relatively minor inconvenience.

2. Bonding. The \$750 bond ceiling per acre is inadequate to protect the state's interest in the event of bond forfeiture. The draft legislation should either raise the bond ceiling to cover all reasonable state expenses or authorize DNR to establish bonding levels on an individual basis as is currently the practice with other state land use activities.

3. Abandoned Mines Program. Specific provisions are needed to establish a funding mechanism and program for restoring lands degraded prior to passage of the reclamation legislation or that are abandoned when the operator moves outside of the state's jurisdiction and no other recourse, state or federal,

*wants flexibility*

is available. While the state's Abandoned Mines Reclamation Fund under SCMCRA (AS 27.21) authorizes limited use of federal funds for restoration of non-coal abandoned mines, the program is primarily targeted at abatement of public safety nuisances; not restoration of environmental productivity and stability. Several individuals testifying at the recent Resources Committee reclamation hearing suggested that the state or mining districts would have to reclaim abandoned mines if public opposition to mining related impacts is to be abated. As long as abandoned scars are visible, they felt the public would be unwilling to believe that the industry has made substantial progress in recent years. We further suggest that it is in the public interest to return degraded state lands to a productive and useful state.

4. Reclamation Standard. The proposed "undue or unnecessary" performance standard maintains the status quo by accepting a level of impact consistent with industry norms. While this performance standard parallels the Bureau of Land Management's standard and certainly can be used to obtain reasonable reclamation, a more progressive standard would focus greater emphasis on avoidance, minimization, restoration, and enhancement of state resources.
5. Small Miner Exemption. Under the draft bill, a substantial percentage of the state's mining operations would fall under the small miners exemption. While the intent of this provision was to parallel BLM's five acre "Notice of Intent" threshold, it should be noted that BLM's threshold is five cumulative acres, not acres per year. Adequately planned and executed at the start of operations, reclamation costs for small mines are relatively insignificant compared to gross operating expenses. We believe that all mining and sand and gravel operations should be reclaimed in accordance with a reclamation plan. At a minimum the small miner exemption should not exceed BLM's standard of five cumulative acres. An operator wishing to move up his/her claim would have to reclaim the first five acres before they could regain exempt status.

We have enclosed suggested legislative language to address each of the above concerns. The focus of our proposals is to provide DNR with adequate management tools to protect the state interest while regulating industry on a site-specific basis. Since the legislative session is rapidly coming to a close, the Administration will need to be prepared to respond to the Senate Resources Committee's draft bill on short notice. We look forward to discussing the proposed legislation as soon as you have had an opportunity to review our recommendations.

Enclosure (1)

cc: Denby Lloyd  
Larry Dietrick  
Gary Gustafson  
Molly McCammon  
Bruce Baker  
ADF&G Division Directors  
Al Ott  
Lance Trasky  
Rick Reed  
Deena Henkins

ADF&G Recommended  
DNR Reclamation Statutes  
April 9, 1990

AS 38.90.010. Jurisdiction. The commissioner of natural resources shall exercise jurisdiction to implement this chapter over all land and water within the state subject to mining exploration or development under AS 27.10 or AS 38.05.185-.280 or sand and gravel exploration or development under AS 38.05.110-.120.

AS 38.90.020. Reclamation of state lands and waters. (a) All activities subject to this chapter must be reclaimed in accordance with the provisions of this chapter and regulations adopted under AS 38.90.030. Reclamation shall be completed in accordance with a reclamation plan approved by the commissioner and shall provide for long-term environmental stability, renewable resource productivity and the maintenance of the land and water resources of the state in the manner which best provides for the present needs and preserves the future options of the people of Alaska.

AS 38.90.030. Reclamation standards. (a) By July 1, 1991, the commissioner shall adopt reclamation performance standards and procedures by regulation in accordance with the Administrative Procedures Act (AS 44.62) necessary to accomplish the purposes of this chapter, and shall consult with the commissioners of the departments of environmental conservation and fish and game in the development of such regulations. All permits and leases issued under this chapter shall require that mining operations must comply with those reclamation performance standards. The regulations adopted under this chapter shall, at a minimum,

(1) assure that mining operations are conducted in a manner that will avoid degradation of land and water resources both during and after the period of actual mining operations; No

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(3) (2) assure that mining operations are not conducted where reclamation required by this chapter and the regulations adopted under it is not feasible; No

(2) (3) assure that reclamation is accomplished as contemporaneously as practicable with the mining activity; OK

(1) (4) provide for the protection, restoration and, where appropriate, enhancement of the biological productivity of terrestrial and aquatic environments through inclusion of specific performance requirements; and

(3)(b) (5) establish appropriate procedures for meaningful consultation with the commissioners of fish and game and environmental conservation in the review of individual reclamation plans submitted for the commissioner's approval under Section 38.90.020.

AS 38.90.100. Alternate post-mining purposes and experimental practices. In order to encourage advances in mining and reclamation practices, and to allow post-mining land use for industrial, commercial, residential, recreational, or public purposes, the commissioner may, after consultation with the commissioners of fish and game and environmental conservation, authorize departures in individual cases from the requirements of this chapter or a regulation adopted under it if

(1) the alternate post-mining use is in the overall public interest and all feasible and prudent measures are incorporated to maximize compliance with the provisions of this chapter or regulations adopted under it; or

(2) the experimental practices are potentially more protective of the environment, or at least as protective of the environment, as those required by this chapter and regulations adopted under it, and

(3) the mining operation for which the departure is authorized is not larger than necessary to determine the effectiveness and economic feasibility of the experimental practices, and

(4) the experimental practices do not reduce the protection afforded public health and safety or environmental protection below that provided by other law or regulation.

AS 38.90.600. Mine Reclamation Fund. (a) To promote reclamation of areas that have been mined and left without adequate reclamation, and that degrade the quality of the environment, prevent the beneficial use or cause damage to land or water resources, or endanger the health or safety of the public, there is created a revolving "Mine Reclamation Fund," which shall be used exclusively,

(1) to carry out the purposes and provisions of this chapter or regulations adopted under it or other duties that may be delegated by the legislature to the commissioner or the department; and

(2) to carry out such purposes and objectives within the scope of this chapter or regulations adopted under it as may be directed by the donor of any such funds.

(b) The Mine Reclamation Fund must be utilized to augment and supplement federal funding available to the Abandoned Mines Reclamation Fund under the Alaska Surface Coal Mining Control and Reclamation Act (AS 27.21) and to provide a funding source for reclamation of mining operations which are ineligible under that act;

(c) The Mine Reclamation Fund must be made up of the following money and other money the legislature appropriates, which shall be deposited and retained in the fund until expended:

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(1) money received in settlement of a criminal or civil complaint under AS 38.90.900 - .910 or a lien under AS 38.90.620 and reappropriated by the legislature for deposit in the Fund;

(2) money received from federal, state, or other governmental unit, a private donor or an industry or governmental agency bonding pool for mine reclamation purposes;

(3) interest earned upon money in the fund;

(4) money from any other source appropriated by the legislature for deposit in the Fund.

AS 38.90.610. Eligible land and water. (a) Land and water eligible for reclamation expenditures under AS 38.90.600 are those that were mined for locatable, leasable or other minerals, either prior to or after enactment of this section, or were affected by such mining, and abandoned or left in an inadequate reclamation status, which are ineligible for reclamation under the Abandoned Mines Reclamation Fund (AS 27.21.270 - .280 and for which there is no continuing reclamation responsibility or civil remedy under state or federal law.

(b) The commissioner shall identify land and water eligible for reclamation under AS 38.90.600, the anticipated costs for restoring such lands to comply with the provisions of this chapter and regulations adopted under it, and a schedule for completion and shall forward them to the governor and the legislature within the first 10 days of each regular session of the legislature.

AS 38.90.620. Relationship to Alaska Surface Coal Mining Control and Reclamation Act (AS 27.21) authorities. For purposes of implementation and enforcement of the provisions of this chapter or regulations adopted under it, the powers and authorities vested in the commissioner under AS 27.21.290 - .310 for purposes of participation in the Abandoned Mines Reclamation Fund under the Alaska Surface Coal Mining Control and Reclamation Act (AS 27.21) are extended to include this chapter.

AS 38.90.700. Performance bond. (a) The commissioner will in his or her discretion require a performance bond with a surety company authorized to transact business in Alaska or other such security as the commissioner may approve to secure the performance of the terms and conditions of a permit or lease issued under this chapter. On a determination by the commissioner that a miner has failed to follow the approved reclamation plan, the commissioner shall require proof of financial responsibility before the miner undertakes any further mining activity.

(b) A performance bond or security required by (a) of this section is limited to an amount reasonably necessary to insure faithful performance of the requirements of this chapter and the approved reclamation plan. The amount of the bond or other security shall be determined by the commissioner and shall reflect

*Bond Pool  
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the probable difficulty of the reclamation considering the topography, geology, hydrology, environmental and biological factors, revegetation potential, site accessibility, and similar factors relating to the area.

(c) Liability under a performance bond required by (a) of this section must exist for the duration of the mining and reclamation operation and for the period of time of the permittee's or lessee's responsibility under the performance standards established by this chapter or regulations adopted under it.

(d) The posting of a performance bond or the taking of other security under (a) of this section does not limit the department's right, under applicable law, to seek further compensation from the permittee or lessee for actual damages to state lands or waters or for a violation of the performance standards established by this chapter or regulations adopted under it.

AS 38.90.800. Criminal penalties. (a) A person or governmental agency who causes or permits a violation of this chapter or a regulation, lawful order, or permit, approval, or acceptance, or term or condition of a permit, approval or acceptance issued under this chapter, is guilty of a Class A misdemeanor. Each day on which a violation constitutes a separate offense.

(b) A person or government agency who fails to provide or falsely states information required under this chapter or a regulation adopted under it is guilty of a Class A misdemeanor. Each unlawful act constitutes a separate offense.

(c) The court shall transmit the proceeds of all penalties and fines to the proper state officer for deposit in the General Fund subject to reappropriation by the legislature for deposit in the Mine Reclamation Fund established under AS 38.90.600.

AS 38.90.810. Civil penalties. A person or governmental agency who causes or permits a violation of this chapter or a regulation, lawful order, or permit, approval, or acceptance, or term or condition of a permit, approval or acceptance issued under this chapter, is liable to the state in a civil action for the full amount of actual damages caused to the state by the violation, including direct and indirect costs associated with the abatement of the violation, restoration of the environment to its former state, and all incidental administrative costs.

(b) The court shall transmit the proceeds of all fines and civil judgements to the proper state officer for deposit in the General Fund subject to reappropriation by the legislature for deposit in the Mine Reclamation Fund established under AS 38.90.600.

AS 38.90.900. Miscellaneous powers. (a) The commissioner may request the attorney general to initiate, in addition to any other

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remedies provided in this chapter, an action in equity for an injunction to restrain any interference with the exercise of the right to enter or to conduct reclamation under this chapter or a regulation adopted under it.

(b) The commissioner has the power and authority to construct and operate facilities or to implement other management practices for the control and treatment of water pollution resulting from abandoned mine drainage, so long as that control and treatment complies with 33 U.S.C. 1251-1376 (Clean Water Act).

AS 38.90.910. Emergency powers. (a) When the commissioner finds, after investigation, that a person or government agency is causing, engaging in or maintaining a condition or activity which, in the judgement of the commissioner presents an imminent or present danger to the health or welfare of the people or would result or is likely to result in irreversible or irreparable damage to the natural resources or environment of the state, and it appears to be prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can be provided, the department may with written notice, without prior hearing, order that person or government agency to discontinue, abate or alleviate the condition or activity. The proscribed condition or activity shall be immediately discontinued, abated or alleviated.

(b) Upon receipt of an order of the commissioner made under (a) of this section, the person or government agency has the right to be heard and to present proof to the commissioner that the condition or activity does not constitute an actual or potential source of irreversible or irreparable damage to the natural resources or environment of the state, or that the order may constitute a substantial private hardship.

(c) In the commissioner's discretion or upon application made by the recipient of an order within 15 days of receipt of the order, the commissioner shall schedule a hearing at the earliest possible time. The hearing shall be scheduled within 5 days of receipt of the application. The submission of the application or the scheduling of the hearing does not stay the operation of the commissioner's order made under (a) of this section.

(d) After a hearing, the commissioner may affirm, modify, or set aside an order. An order affirmed, modified, or set aside after hearing is subject to judicial review as provide in AS 44.62.560. The order is not stayed pending judicial review unless the commissioner so directs. If an order is not immediately complied with, the attorney general, upon request of the commissioner, shall seek enforcement of the order.

(e) The commissioner may adopt additional regulations prescribing the procedure to be followed in the issuance of emergency orders.

AS 38.90.920. Relationship to other laws. Nothing in this chapter abrogates or modifies the power of another state agency to enforce laws and regulations within its jurisdiction.

AS 38.90.930. Cooperative management agreements. (a) The commissioner, after determining that the agreement is in the best interests of the public and state, may enter into cooperative management agreements with the federal government or a state agency to implement the requirements, in full or in part, of this chapter or a regulation adopted under it. Specific guidelines to protect the state and public interest shall be established, if necessary, by the commissioner before entering into an agreement under this section.

(b) A summary of agreements entered into under this section shall be submitted to the legislature within 30 days of the beginning of each regular session.

AS 38.90.940. Exemptions. The requirements of this chapter do not apply to mining activities

(1) authorized under the Alaska Surface Coal Mining Control and Reclamation Act (AS 27.21); or

(2) by a landowner or lessee for the landowner's or lessee's own noncommercial use from land owned or leased by it.

AS 38.90.950. Severability. If any provisions of this chapter or the applicability of it to any person or government agency or circumstances is held invalid, the remainder of this chapter and the application of that provision to other persons, government agency or circumstances is not affected.

AS 38.90.960. Conflict of interest. An employee of the department, a private contractor, or a government agency performing a function or duty under this chapter may not have a direct or indirect financial interest in a mining operation regulated under this chapter. A person or government agency who knowingly violates this section is guilty of a Class A misdemeanor.

AS 38.90.970. Administrative Procedures Act. Except as provided under AS 38.90.910, the Administrative Procedures Act (AS 44.62) applies to this chapter.

AS 38.90.990. Definitions. In this chapter, unless otherwise specified,

(1) "commissioner" means the commissioner of natural resources or the commissioner's authorized representative or agent;

(2) "other minerals" means clay, stone, sand, gravel, metalliferous and non-metalliferous ores, and other solid materials

or substances of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal, and those minerals that occur naturally in liquid or gaseous form;

(3) "person" means an individual, partnership, association, society, joint-stock company, firm, company, corporation, or other business organization;

(4) "reclamation plan" means a plan submitted for the reclamation of an applicant's proposed mining operation submitted by the applicant under regulations adopted under AS 38.90.030.



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## CONCEPTUAL COMMENTS ON SB 544 - RECLAMATION

We thank the Senate Resources Committee for addressing this important issue, and strongly support the intent of this legislation. Reclamation is a key component of the public acceptance necessary to a thriving mineral industry in Alaska. The industry has made commendable progress in the area of environmental responsibility in recent years, and we encourage continuation of that trend.

We have focused on basic, attainable requirements, and have included several suggestions which are intended to provide positive assistance to the industry. These suggestions are intended to be an outline of our ideas, rather than precisely-drafted language.

- ✓ 1.) We support the provisions for applicability to all land in the state. The recognition of the legitimate public interest in seeing that all land is reclaimed after mining is a key to effective reclamation legislation; and a single clear standard will give the industry both the regulatory uniformity and public acceptance it needs to thrive.

It is not, however, appropriate to require private landowners to manage for multiple use, and we would support language to allow private landowners to manage for whatever post-mining use they designate; so long as public resources on the private land or adjacent land are protected by some sort of phrasing such as "considering the effects of operations on other public resources and public land uses."

- ✓ 2.) We support the inclusion of sand and gravel.

3.) We believe the standard of "prevention of undue or unnecessary degradation...and return of the site to a stable condition consistent with the reclamation plan" does not adequately safeguard the public interest. Our suggestion is:

Sec. 27.19.020. STANDARDS. (a) Reclamation for a mining operation shall be completed under a reclamation plan approved by the commissioner. The reclamation plan must provide for long-term environmental stability, renewable resource productivity, and the maintenance of the land and water resources of the state in the manner which best provides for the present needs at the same time as it preserves the future options for the people of the state. The plan must

allowable  
within  
title

✓ (1) provide for the protection, restoration, and enhancement of the biological productivity and diversity of terrestrial and aquatic environments through inclusion of specific performance requirements; and

✓ (2) assure that reclamation is accomplished as contemporaneously as practicable with the mining activity, but in any case, is completed within one 12 months after the termination of mining operations;

✓ (3) assure that mining operations are not conducted where reclamation required by this chapter and the regulations adopted under it is not feasible;

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for ex.  
hardrock  
mining

✓ (b) The commissioner shall establish appropriate procedures for meaningful public and agency participation in the development, revision, and enforcement of regulations, standards, and reclamation plans or programs established under this chapter.

4.) To allow necessary flexibility to accommodate a variety of post-mining uses, and to encourage development of improved practices, we suggest insertion of a new section to read:

Sec. 27.19.---. ALTERNATE POST-MINING PURPOSES AND EXPERIMENTAL PRACTICES. In order to encourage advances in mining and reclamation practices, and to allow post-mining land use for industrial, commercial, residential, recreational, or public purposes, the commissioner may, after consultation with the commissioners of fish and game and environmental conservation, authorize departures in individual cases from the requirements of this chapter or a regulation adopted under it if

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(1) the alternate post-mining use is in the overall public interest and all feasible and prudent measures are incorporated to maximize compliance with the provisions of this chapter or regulations adopted under it; or

(2) the experimental practices are potentially more protective of the environment, or at least as protective of the environment, as those required by this chapter and regulations adopted under it, and

overall  
public  
interest  
(how to determine)

habitat  
protection

flexible

refers to  
alternate  
reclamation

reclamation

innovative  
techniques  
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revised

(from fed. coal reclamation act)

(3) the mining operation for which the departure is authorized is not larger than necessary to determine the effectiveness and economic feasibility of the experimental practices, and

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(4) the experimental practices do not reduce the protection afforded public health and safety or environmental protection below that provided by other law or regulation.

5.) Bonding or other financial surety requirements must be both attainable and flexible. A bond pooling mechanism would help the industry. Wyoming has a successful bond pooling program; one modeled on it would appear to be an excellent solution. In the absence of some sort of bond pooling program, the flexibility to accept other financial sureties would be necessary. Bonding must not be limited to a set amount, but should be consistent with the amount that would be reasonably required to reclaim the particular type of mine and site in question. We would suggest rewording as follows:

Sec. 27. 19. 030. RECLAMATION PLAN AND BONDING. (a) The commissioner shall adopt regulations which establish a collective bond pooling program to ensure financial responsibility for completion of requirements established in a reclamation plan.

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(b) A miner may not engage in a mining operation until the commissioner has approved a reclamation plan for the mining operation.

(c) The commissioner shall require a miner to post an individual performance bond on a determination by the commissioner that the miner has failed to follow an approved reclamation plan, and may require a miner to post a performance bond as part of a bond pooling program.

(d) The commissioner may not require an individual performance bond under this section in an amount in excess of the amount reasonably necessary to ensure faithful performance of the requirements of the approved reclamation plan. The amount of the performance bond shall be determined by the commissioner and shall reflect the reasonable and probable costs of reclamation.

(e) The establishment of an individual performance bond under this section does not limit the authority of the commissioner to seek further compensation from a miner for actual damages to state land or water or for a violation of the performance standards established by this chapter or for a

violation of the performance standards established by this chapter or by regulations adopted under it.

6.) We support the intent of providing an incentive for reclaiming land as mining progresses, but blanket small mine exemptions have been a problem in other states. We suggest that the noticing, planning, and other requirements be structured differentially, so that there is significantly less red tape for small operators.

7.) The cooperative management provisions are an effective means of streamlining administration of the program, for all concerned.

8.) Appropriate changes in numbering of sections and in definitions would have to be made to accommodate these changes.

9.) Enforcement provisions are also needed. If responsible operators are to be protected from the adverse effects of the irresponsible few, DNR will need a reasonable and graduated system of enforcement powers.

A major item which should be included to streamline procedures and save time and money for all parties involved is the power to assess administrative penalties ("writing a ticket"), so it is not necessary to haul miners into court for every small infraction. Here are additional suggestions for enforcement language:

Sec. 27. 19. ---. CRIMINAL PENALTIES. (a) A person who causes or permits a violation of this chapter, or a regulation, lawful order, or reclamation plan under this chapter is guilty of a violation.

(b) A person who knowingly causes or permits a violation of this chapter, or a regulation, lawful order, or reclamation plan under this chapter is guilty of a class A misdemeanor.

(c) A person who fails to provide or falsely states information required under this chapter or a regulation adopted under it is guilty of a class A misdemeanor.

Sec. 27. 19. ---. CIVIL PENALTIES. A person who causes or permits a violation of this chapter, or a regulation, lawful order, or reclamation plan under this chapter is liable to the state in a civil action for the full amount of actual damages caused to the state by the violation, including direct or indirect costs associated with the abatement of the violation, restoration of the environment to its former state, and all incidental administrative costs.

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Violation*

*Class  
A misdemeanor*