

ALASKA LEGISLATURE COMMITTEES FILES 1991-1992 8672
7156 HOUSE RESOURCES

1 (2) persons most in need of community mental health services be afforded an
2 enforceable priority for receiving appropriate services;

3 (3) the community mental health program be coordinated, to the maximum extent
4 possible, with the programs established under AS 47.37, AS 47.65, AS 47.80, and other programs
5 affecting the well being of persons in need of mental health services.

6 (b) Community mental health program service delivery principles include the principles
7 that persons

8 (1) have ready and prompt access to necessary screening, diagnosis, and treatment;

9 (2) receiving community mental health services be informed of their rights,
10 including their rights to confidentiality and to treatment with dignity;

11 (3) be provided community mental health services by staff and programs that
12 reflect the culture, linguistic, and other social characteristics of their community and that
13 incorporate multidisciplinary professional staff to meet client functional levels and diagnostic and
14 treatment needs;

15 (4) in need of community mental health services, and their families, be
16 encouraged to participate in formulating, delivering, and evaluating treatment and rehabilitation;

17 (5) in need of community mental health services be provided treatment and
18 rehabilitation services designed to minimize institutionalization and maximize individual potential;

19 (6) be treated in the least restrictive alternative environment consistent with their
20 treatment needs, enabling the person to live as normally as possible;

21 (7) be provided necessary treatment as close to the person's home as possible;

22 (8) be informed of and allowed to participate in planning their own treatment as
23 much as possible.

24 Sec. 47.30.525. DUTIES OF DIVISION OF MENTAL HEALTH AND
25 DEVELOPMENTAL DISABILITIES. The division of mental health and developmental
26 disabilities shall

27 (1) assist the authority in planning, coordinating, and implementing the mental
28 health program;

29 (2) advise and support the advisory bodies established in AS 47.30.601 and
30 AS 47.80.030 in fulfilling their planning responsibilities related to the mental health program;

31 (3) give technical assistance to entities that provide or propose to provide services

1 funded by the trust;

2 (4) develop and recommend to the authority regulations and standards for mental
3 health services, facilities, and providers;

4 (5) assist the authority by administering grant programs for the delivery of
5 services funded by the trust;

6 (6) at least biennially, obtain for the authority financial and performance audits
7 of each entity providing services funded by the mental health trust income account;

8 (7) operate mental health programs and facilities ^[as directed by] the Alaska Mental
9 Health Trust Authority.

Insert: under guidelines
established by

10 * Sec. 30. AS 47.30.540 is amended to read:

11 Sec. 47.30.540. ELIGIBLE LOCAL COMMUNITY ENTITIES. (a) A city or borough
12 government or other political subdivision of the state, a nonprofit corporation, or a combination
13 of these, is eligible to receive funds and administer local programs under AS 47.30.520 -
14 47.30.620. In order to ensure equitable access to funds and programs through the state, the
15 authority [DEPARTMENT] shall determine appropriate geographical areas to be served by local
16 programs in consultation with representatives of the geographical areas in question.

17 (b) An [THE] entity designated by the authority [DEPARTMENT IN THE LOCAL
18 AREA AS THE ORGANIZATIONAL UNIT] to receive money [FUNDS] under AS 47.30.520 -
19 47.30.620 [AND TO ADMINISTER THE PROGRAM] shall ensure a broad base of community
20 support as evidenced by a governing board reasonably representative of the professional, civic,
21 and citizen groups in the community and including persons with mental disorders or family
22 members of persons with mental disorders. No more than two members, or 40 percent of the
23 membership, whichever is greater, may be providers of services under the program. In order to
24 receive funds under AS 47.30.520 - 47.30.620, a local community entity shall agree to

25 (1) give priority to mental health programs and services consistent with the
26 priorities set out in AS 47.30.061 and that provide the [HAVE A] maximum services for the
27 least expenditure of money from the mental health trust income account and from other
28 state funds, including consideration of money from other sources [EFFECT ON OTHER TAX
29 FUNDED PROGRAMS];

30 (2) furnish services through a qualified staff meeting reasonable standards of
31 experience and training;

1 (3) conform to a state cost accounting system showing the true cost of services
2 rendered, collect fees for services according to a schedule based on an analysis of reasonable
3 ability to pay, and provide that a person may not be refused services because of inability to pay
4 for those services;

5 (4) maintain adequate clinical and administrative records and furnish periodic
6 reports to the division [DEPARTMENT];

7 (5) furnish the authority and the division [DEPARTMENT] an annual report of
8 the preceding fiscal year, including an evaluation of the effectiveness of the previous year's
9 programs and their costs; and

10 (6) furnish the authority and the division, in accordance with the regulations
11 of the authority, [DEPARTMENT EACH YEAR A] satisfactory needs assessments for the
12 population and area it serves and an annual update of a long-range planning and budget
13 statement that describes program goals for the coming year, the steps and resources necessary
14 to implement the goals, the projected means by which these resources will be secured, and the
15 procedures necessary to evaluate the program; and

16 (7) cooperate with the division to obtain audits required under
17 AS 47.30.525(6).

18 (c) Members of local governing boards may be reimbursed for necessary travel expenses
19 incurred in the organization and operation of local programs as may be determined by the
20 authority [DEPARTMENT].

21 * Sec. 31. AS 47.30.545 is repealed and reenacted to read:

22 Sec. 47.30.545. POPULATIONS TO BE SERVED. The entities designated by the
23 authority to receive money under AS 47.30.540(b) shall provide one or more of the services that
24 are set out in AS 47.30.061(j) to persons identified in AS 47.30.061.

25 * Sec. 32. AS 47.30.547 is amended to read:

26 Sec. 47.30.547. STANDARDS FOR COMMUNITY MENTAL HEALTH SERVICES.
27 An entity that provides community mental health services shall

28 (1) make services available at times and locations that enable residents of the
29 entity's service area to obtain services readily;

30 (2) ensure each client's right to confidentiality and treatment with dignity;

31 (3) establish staffing patterns of qualified and trained personnel that reflect the

1 cultural, linguistic, and other social characteristics of the community and that incorporate
2 multidisciplinary professional staff to meet client functional levels and diagnostic and treatment
3 needs;

4 (4) promote client and family participation in formulating, delivering, and
5 evaluating treatment and rehabilitation;

6 (5) design screening, diagnosis, treatment, and rehabilitation services to
7 maximize individual potential and to minimize institutionalization; and

8 (6) provide services in the least restrictive setting, enabling the person
9 receiving the services to live as normally as possible.

10 * Sec. 33. AS 47.30.550 is amended to read:

11 Sec. 47.30.550. COST SHARING FORMULA; LIMITATIONS. (a) In a district
12 designated by the department as a poverty area, the authority [DEPARTMENT] may pay
13 [FUND] not more than 90 percent of the eligible costs of the [COMMUNITY] mental health
14 services to be furnished by the entity designated to provide the services [UNDER AN
15 ENTITY'S APPROVED PLAN].

16 (b) In a district that has not been designated by the department as a poverty area, the
17 authority [DEPARTMENT] may pay [FUND] not more than 75 percent of the eligible costs of
18 the community mental health services to be furnished by the entity designated to provide the
19 services [UNDER AN ENTITY'S APPROVED PLAN].

20 (c) Notwithstanding (a) and (b) of this section, if the authority [DEPARTMENT]
21 determines that sufficient money [FUNDS] from other sources is [ARE] unavailable, then the
22 authority [DEPARTMENT] shall pay [FUND] the percent of the eligible costs that is necessary
23 in order to ensure that services for persons eligible for services under AS 47.30.520 - 47.30.620
24 [CHRONICALLY MENTALLY ILL ADULTS AND SEVERELY MENTALLY ILL
25 CHILDREN, AND OTHER COMMUNITY MENTAL HEALTH SERVICES] to be furnished
26 by the entity designated to provide the services [UNDER AN ENTITY'S APPROVED PLAN]
27 are made available [BY THE ENTITY. FUNDING UNDER THIS SUBSECTION IS SUBJECT
28 TO THE AVAILABILITY OF LEGISLATIVE APPROPRIATIONS FOR THE PURPOSE].

29 (d) Income earned by an entity for services provided [THROUGH A COMMUNITY
30 MENTAL HEALTH PROJECT FUNDED] under AS 47.30.520 - 47.30.620 must [SHALL] be
31 used, as approved by the authority [DEPARTMENT], to augment or enhance the [ENTITY'S

1 MENTAL HEALTH] services provided by the entity.

2 * Sec. 34. AS 47.30.570 is amended to read:

3 Sec. 47.30.570. ELIGIBLE COSTS; MAINTENANCE OF LOCAL EFFORT. The
4 authority [DEPARTMENT] shall adopt regulations specifying the types of services and program
5 costs eligible for financial support payable by the authority [STATE PARTICIPATION].
6 These regulations must include

7 [(1) A PROVISION EXCLUDING CAPITAL EXPENDITURES AS ELIGIBLE
8 COSTS; AND

9 (2)] a requirement that the [COMMUNITY ENTITY] contractor or applicant
10 agrees as a condition of contract approval that it will not supplant existing local financial
11 [FUND] support [OF COMMUNITY MENTAL HEALTH SERVICES] with money [FUNDS]
12 received under AS 47.30.520 - 47.30.620 and that it will continue local financial [FUNDING]
13 support of the [COMMUNITY MENTAL HEALTH] services, in any year in which it contracts
14 with the authority [DEPARTMENT], at a level that is at least equal to the local financial
15 [FUNDING] support in the previous year.

16 * Sec. 35. AS 47.30.590 is amended to read:

17 Sec. 47.30.590. PATIENT RIGHTS AND THE CONFIDENTIAL NATURE OF
18 RECORDS AND INFORMATION. The authority [DEPARTMENT] shall adopt regulations to
19 assure patient rights and to safeguard the confidential nature of records and information about
20 the recipients of services provided under this chapter [AS 47.30.520 - 47.30.620]. The
21 regulations must require that [LOCAL COMMUNITY] entities identified in AS 47.30.540(b)
22 develop and include in any plan submitted for approval adequate provisions for safeguarding
23 confidential information. The [DEPARTMENT'S] regulations must provide for disclosure of
24 confidential information to parents or guardians, to mental health professionals providing
25 services to a recipient, and to other appropriate service agencies when it is in the defined best
26 interests of the patient.

27 * Sec. 36. AS 47.30.610 is repealed and reenacted to read:

28 Sec. 47.30.610. DEFINITIONS. In AS 47.30.520 - 47.30.610,

29 (1) "authority" means the Alaska Mental Health Trust Authority established in
30 AS 47.30.011;

31 (2) "department" means the Department of Health and Social Services;

1 (3) "division" means the division of mental health and developmental disabilities
2 in the Department of Health and Social Services;

3 (4) "persons with mental disorders" means persons with disorders currently
4 included within nationally accepted diagnostic systems of the mental health professions;

5 (5) "poverty area" means an election district in which 15 percent or more of the
6 population, based upon the most recent census data, falls under 125 percent of the Office of
7 Economic Opportunity poverty guidelines;

8 (6) "trust" has the meaning given in AS 47.30.066.

9 * Sec. 37. AS 47.30.660 is amended to read:

10 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. (a) The department
11 shall assist the Alaska Mental Health Trust Authority in the fulfillment of its duties. The
12 department shall coordinate with federal, state, regional, local, and private entities involved
13 in delivery of mental health services. The department shall implement a comprehensive and
14 integrated system of care that meets the service needs of the beneficiaries of the trust
15 established under the Alaska Mental Health Enabling Act of 1956, as determined by the
16 Alaska Mental Health Trust Authority and the goals and objectives of the plan approved
17 by the authority.

18 (b) The department, in fulfilling its duties under this section and through its division
19 of mental health and developmental disabilities, [IS THE MENTAL HEALTH AUTHORITY
20 OF THE STATE AND] shall

21 (1) administer a comprehensive program of services for persons with mental
22 disorders [FOR THE PREVENTION OF MENTAL ILLNESS AND THE CARE AND
23 TREATMENT OF THE MENTALLY ILL, INCLUDING INPATIENT AND OUTPATIENT
24 CARE AND TREATMENT AND THE PROCUREMENT OF SERVICES OF SPECIALISTS
25 OR OTHER PERSONS ON A CONTRACTUAL OR OTHER BASIS];

26 (2) take the actions and undertake the obligations that are necessary to participate
27 in federal grants-in-aid programs and accept federal or other financial aid from whatever sources
28 for the study, examination, care, and treatment of persons with mental disorders [THE
29 MENTALLY ILL];

30 (3) administer AS 47.30.660 - 47.30.915;

31 (4) designate, operate, and maintain treatment facilities equipped and qualified to

1 provide inpatient and outpatient care and treatment for persons with mental disorders [THE
2 MENTALLY ILL];

3 (5) provide for the placement of [MENTALLY ILL] patients with mental
4 disorders in designated treatment facilities;

5 (6) enter into arrangements with governmental agencies for the care or treatment
6 of persons with mental disorders [THE MENTALLY ILL] in facilities of the governmental
7 agencies in the state or in another state;

8 (7) enter into contracts with treatment facilities for the custody and care or
9 treatment of persons with mental disorders [THE MENTALLY ILL]; contracts under this
10 paragraph are governed by AS 36.30 (State Procurement Code);

11 (8) enter into contracts, which incorporate safeguards consistent with
12 AS 47.30.660 - 47.30.915 and the preservation of the civil rights of the patients [,] with another
13 state for the custody and care or treatment of patients previously committed from this state under
14 48 U.S.C. 46 et seq., and P.L. 84-830 [P.L. 830, 84TH CONGRESS, 2ND SESSION], 70 Stat.
15 709;

16 (9) prescribe the form of applications, records, reports, requests for release, and
17 consents to medical or psychological treatment required by AS 47.30.660 - 47.30.915;

18 (10) require reports from the head of a treatment facility concerning the care of
19 patients;

20 (11) visit each treatment facility at least annually to review methods of care or
21 treatment for patients;

22 (12) investigate complaints made by a patient or an interested party on behalf of
23 a patient;

24 (13) delegate upon mutual agreement to another officer or agency of it, or a
25 political subdivision of the state, or a treatment facility designated, any of the duties and powers
26 imposed upon it by AS 47.30.660 - 47.30.915; [AND]

27 (14) propose to the Alaska Mental Health Trust Authority [ADOPT]
28 regulations to implement the provisions of AS 47.30.660 - 47.30.915; and

29 (15) provide technical assistance and training to providers of mental health
30 services.

31 * Sec. 38. AS 47.30.662 is repealed and reenacted to read:

1 Sec. 47.30.662. COMPOSITION. (a) The board consists of not fewer than 18 nor more
2 than 24 members appointed by the governor, with due regard for the demographics of the state
3 and balanced geographic representation of the state. The membership and committees of the
4 board shall fulfill the requirements of P.L. 99-660, as amended.

5 (b) Not less than one-half of the members shall be persons with a mental disorder
6 identified in AS 47.30.061(c)(1) or members of their families.

7 (c) The board members

8 (1) shall include the director of the division of mental health and developmental
9 disabilities in the department; and

10 (2) may include representatives of the principal state agencies with respect to
11 education, vocational rehabilitation, criminal justice, housing, social services, medical assistance,
12 substance abuse, and aging.

13 (d) Board members appointed under (c) of this section may not vote on matters before
14 the board.

15 (e) The board members shall include at least two licensed mental health professionals
16 who represent public and private providers of mental health services and at least one member
17 who is admitted to practice law in the state. Members appointed under this subsection may also
18 be family members identified under (b) of this section.

19 * Sec. 39. AS 47.30.664(b) is amended to read:

20 (b) The board shall have a paid staff provided by the department, including, but not
21 limited to, an executive director who shall be selected by the board [FROM CANDIDATES
22 PROVIDED BY THE DEPARTMENT]. The executive director is in the partially exempt service
23 and shall be compensated at no less than range 21 of the pay plan for state employees under
24 AS 39.27.011(a). The executive director may hire additional employees in the classified service
25 of the state. The department shall provide for the assignment of personnel to the board to
26 ensure the board has the capacity to fulfill its responsibilities. The executive director [AND
27 THE STAFF] of the board shall be directly responsible to the board in the performance of the
28 director's [THEIR] duties.

29 * Sec. 40. AS 47.30.666 is repealed and reenacted to read:

30 Sec. 47.30.666. DUTIES OF THE BOARD. The board is the state planning and
31 coordinating body for the purpose of federal and state laws relating to mental health services for

1 persons with mental disorders identified in AS 47.30.061(b), (d), (g), and (h). On behalf of those
2 persons, the board shall

3 (1) prepare and maintain a comprehensive plan of treatment and rehabilitation
4 services;

5 (2) propose an annual implementation plan consistent with the comprehensive plan
6 and with due regard for the findings from evaluation of existing programs;

7 (3) provide a public forum for the discussion of issues related to the mental health
8 services for which the board has planning and coordinating responsibility;

9 (4) advocate the needs of persons with mental disorders before executive agencies
10 and the legislature and the public;

11 (5) advise the legislature, the governor, the Alaska Mental Health Trust Authority,
12 and other state agencies in matters affecting persons with mental disorders, including, but not
13 limited to,

14 (A) development of necessary services for diagnosis, treatment, and
15 rehabilitation;

16 (B) evaluation of the effectiveness of programs in the state for diagnosis,
17 treatment, and rehabilitation;

18 (C) legal processes that affect screening, diagnosis, treatment, and
19 rehabilitation;

20 (6) make recommendations to the Alaska Mental Health Trust Authority
21 concerning the mental health program of the state and the use of money in the mental health trust
22 income account in a manner consistent with AS 47.30.061; in making recommendations affecting
23 the mental health trust, the members of the board assume a duty of loyalty to the mental health
24 trust equivalent to that of a private trustee; and

25 (7) submit periodic reports regarding its planning, evaluation, advocacy, and other
26 activities.

27 * Sec. 41. AS 47.30 is amended by adding a new section to read:

28 Sec. 47.30.667. COMPENSATION, PER DIEM, AND EXPENSES. The board members
29 appointed under AS 47.30.662(b) and (e) are not entitled to a salary, but are entitled to per diem.
30 reimbursement for travel, and other expenses authorized by law for boards and commissions
31 under AS 39.20.180.

1 * Sec. 42. AS 47.30.910(d) is amended to read:

2 (d) All money paid by the patient or on the patient's behalf to the department under this
3 section shall be deposited in the mental health trust income account established in
4 AS 37.14.021 [GENERAL FUND].

5 * Sec. 43. AS 47.30.910(g) is amended to read:

6 (g) The Alaska Mental Health Trust Authority [COMMISSIONER OF
7 ADMINISTRATION] shall separately account for medical care and treatment fees collected under
8 this section. Notwithstanding AS 37.10.050, the authority shall deposit the fees collected in
9 the mental health trust income account [THAT THE DEPARTMENT DEPOSITS IN THE
10 GENERAL FUND. THE ANNUAL ESTIMATED BALANCE IN THE ACCOUNT MAY BE
11 USED BY THE LEGISLATURE TO MAKE APPROPRIATIONS TO THE DEPARTMENT
12 TO CARRY OUT THE PURPOSES OF THIS SECTION].

13 * Sec. 44. AS 47.30.910 is amended by adding a new subsection to read:

14 (h) The Alaska Mental Health Trust Authority shall adopt regulations establishing
15 procedures to be used under this section.

16 * Sec. 45. AS 47.30.915(12) is amended to read:

17 (12) "mental illness" means a disorder identified in AS 47.30.061(c)(1), (3), and
18 (4) and includes an organic, mental, or emotional impairment that has substantial adverse effects
19 on an individual's ability to exercise conscious control of the individual's actions or ability to
20 perceive reality or to reason or understand; [MENTAL RETARDATION, EPILEPSY, DRUG
21 ADDICTION, AND ALCOHOLISM DO NOT PER SE CONSTITUTE MENTAL ILLNESS,
22 ALTHOUGH PERSONS SUFFERING FROM THESE CONDITIONS MAY ALSO BE
23 SUFFERING FROM MENTAL ILLNESS;]

24 * Sec. 46. AS 47.37.040 is amended by adding a new paragraph to read:

25 (20) conduct program planning activities approved by the Advisory Board on
26 Alcoholism and Drug Abuse.

27 * Sec. 47. AS 47.80.070(b) is amended to read:

28 (b) The council shall have a paid staff provided by the department, including an
29 executive director selected by the council. The executive director is in the partially exempt
30 service and shall be compensated at no less than range 21 of the pay plan for state
31 employees under AS 39.27.011(a). The executive director may hire additional employees

1 in the classified service of the state. The department shall provide for the assignment of
2 personnel to the council to ensure that the council has the capacity to fulfill its responsibilities.
3 The personnel shall be directly responsible to the council for performance of their duties.

4 * Sec. 48. AS 47.80.090 is amended to read:

5 Sec. 47.80.090. RESPONSIBILITIES. The council shall

6 (1) serve as a forum by which issues and benefits regarding current and potential
7 services to handicapped and gifted persons may be discussed by consumer, public, private,
8 professional, and lay interests;

9 (2) advocate the needs of handicapped and gifted persons before the executive and
10 legislative branches of the state government and before the public;

11 (3) advise the executive and legislative branches of the state government and the
12 private sector on programs and policies pertaining to current and potential services to
13 handicapped or gifted persons and their families;

14 (4) submit periodic reports to the commissioner of health and social services, the
15 commissioner of education, and to other appropriate departments, on the effects of current federal
16 and state programs regarding services to handicapped or gifted persons; these reports shall
17 include program performance reports to the governor, the federal government, and to state
18 agencies as required by P.L. 91-517, P.L. 94-103, or P.L. 94-142, as amended;

19 (5) in conjunction with the Departments of Health and Social Services and
20 Education, develop, prepare, adopt, periodically review, and revise as necessary an annual state
21 plan prescribing programs which meet the needs of persons with developmental disabilities as
22 required under P.L. 91-517 or P.L. 94-103, as amended;

23 (6) review and comment to commissioners of state departments on all state plans
24 and proposed regulations relating to programs for persons with handicaps before the adoption of
25 a plan or regulation; for this purpose, the appropriate departments shall submit the plans and
26 proposed regulations to the council;

27 (7) recommend the priorities and specifications for the use of funds received by
28 the state under P.L. 91-517, P.L. 94-103, and P.L. 94-142, as amended;

29 (8) [SUBMIT] annually submit

30 (A) to the commissioner of health and social services, the commissioner
31 of education, and the commissioner of community and regional affairs a proposed

1 interdepartmental program budget for services to handicapped or gifted persons which
2 includes, insofar as possible, projected revenues and expenditures for programs
3 implemented by state agencies, local governmental agencies, and private organizations;
4 the interdepartmental program budget is an informational supplement to the regular annual
5 budgetary submissions of the departments to the Office of the Governor;

6 (B) recommendations to the Alaska Mental Health Trust Authority
7 concerning the program of services for the beneficiaries identified in
8 AS 47.30.061(c)(2) of the trust established by the Alaska Mental Health Enabling Act
9 of 1956 and use of the money in the mental health trust income account in a manner
10 consistent with AS 47.30.061; in making recommendations affecting the trust,
11 members of the council assume a duty of loyalty to the trust equivalent to that of a
12 private trustee;

13 (9) provide information and guidance for the development of appropriate special
14 educational programs and services for exceptional children as defined in AS 14.30.350;

15 (10) monitor and evaluate budgets or other implementation plans and programs
16 for handicapped and gifted persons to assure nonduplication of services and encourage efficient
17 and coordinated use of federal, state, and private resources in the provision of services; members
18 of the council, with the approval of the council, have access to information in the possession of
19 state agencies subject to disclosure restrictions imposed by state or federal confidentiality or
20 privacy laws;

21 (11) perform other duties required under P.L. 91-517, P.L. 94-103, P.L. 94-142,
22 as amended, or AS 14.30.231, and as the governor may assign; and

23 (12) govern the special education service agency, and may hire personnel
24 necessary to operate the agency.

25 * Sec. 49. AS 47.80.110 is amended to read:

26 Sec. 47.80.110. PROGRAM PRINCIPLES. The system of services and facilities required
27 under AS 47.80.100 shall accord with the principles [PRINCIPLE] that service providers shall

28 (1) make services available at times and locations that enable residents of the
29 provider's service area to obtain services readily;

30 (2) ensure each client's right to confidentiality and treatment with dignity;

31 (3) establish staffing patterns that reflect the cultural, linguistic, and other

1 social characteristics of the community and that incorporate multidisciplinary professional
2 staff to meet client functional levels and diagnostic and treatment needs;

3 (4) promote client and family participation in formulating, delivering, and
4 evaluating treatment and rehabilitation;

5 (5) design treatment [, SERVICES,] and habilitation [SHALL BE DESIGNED]
6 to maximize individual potential and [,] minimize institutionalization; [,] and

7 (6) provide services [SHALL BE PROVIDED] in the least restrictive setting,
8 enabling a person to live as normally as possible within the limitations of the handicap.

9 * Sec. 50. AS 47.30.530, 47.30.546, and 47.30.560; secs. 1, 2, 4, and 5, ch. 132, SLA 1986; and
10 secs. 7 - 10, ch. 48, SLA 1987 are repealed.

11 * Sec. 51. TRANSITIONAL PROVISIONS: DEVELOPMENT OF TRUST INCOME ACCOUNT
12 DISTRIBUTION MECHANISM. Not later than January 1, 1993, the Board of Trustees of the Alaska
13 Mental Health Trust Authority, after consulting with organizations and persons affected by this Act, shall

14 (1) consistent with AS 47.30.061(i), added by sec. 26 of this Act, adopt regulations
15 regarding persons who are to receive services funded by money in the mental health trust income
16 account under AS 37.14.021, as amended by sec. 11 of this Act;

17 (2) publish its finding and estimates regarding the number of persons in need under the
18 regulations adopted under (1) of this section;

19 (3) consistent with AS 47.30.061(k), added by sec. 26 of this Act, adopt regulations
20 regarding the services and facilities upon which expenditures are to be made from money in the mental
21 health trust income account under AS 37.14.021, as amended by sec. 11 of this Act; the regulations may
22 permit the use of the mental health trust income account money for programs or services to which
23 beneficiaries of the trust established by the Alaska Mental Health Enabling Act of 1956 are otherwise
24 entitled without spending trust assets, but the use of the money is limited to the additional costs of
25 providing specific mental health services for beneficiaries of the trust; the money may be expended for
26 services that are provided to the public generally by the state, but the expenditure of the earnings is
27 limited to the additional costs of providing specific mental health services for beneficiaries of the trust;
28 and

29 (4) publish its findings and projections regarding the necessary expenditure of money
30 from the mental health trust income account for the services and facilities identified under (3) of this
31 section; the projections may be based on a formula that considers distribution, demographics, and level

1 of functioning of the persons to be served and the cost of service delivery on a regional basis.

2 * Sec. 52. TRANSITIONAL PROVISIONS: BUDGET DEVELOPMENT. Notwithstanding the
3 repeal of AS 47.30.530 by sec. 50 of this Act, until the Board of Trustees of the Alaska Mental Health
4 Trust Authority adopts regulations under sec. 51 of this Act, or until January 1, 1993, whichever is
5 earlier, the Department of Health and Social Services shall prepare and submit budgets and receive and
6 distribute state appropriations in accordance with AS 47.30.520 - 47.30.620.

7 * Sec. 53. INITIAL APPOINTMENT OF MEMBERS TO THE BOARD OF TRUSTEES.
8 Notwithstanding AS 47.30.016, added by sec. 26 of this Act,

9 (1) the initial appointments to the Board of Trustees of the Alaska Mental Health Trust
10 Authority shall be made by the governor from a list of candidates submitted to the governor by the
11 Alaska Mental Health Board;

12 (2) the initial appointees shall be appointed to initial terms as follows: two shall be
13 appointed for terms of one year, two shall be appointed for terms of two years, two shall be appointed
14 for terms of three years, two shall be appointed for terms of four years, and one shall be appointed for
15 a term of five years.

16 * Sec. 54. INITIAL VALUATION OF LEGISLATIVELY-DESIGNATED TRUST LAND.
17 Notwithstanding AS 37.14.017(b), added by sec. 10 of this Act, the value as of September 7, 1987, of
18 mental health trust land that is established as legislatively-designated land that is included in the trust
19 is the amount determined under the procedures approved by the Interim Mental Health Trust Commission
20 under its resolution dated November 7, 1989. The first redetermination of the value of the land under
21 AS 37.14.017(b), added by sec. 10 of this Act, shall be completed no later than July 1, 1992. In this
22 section, "legislatively-designated land" has the meaning given in AS 37.14.099, added by sec. 12 of this
23 Act.

24 * Sec. 55. TRANSITIONAL PROVISIONS: MEMBERS OF ADVISORY BOARD ON
25 ALCOHOLISM AND DRUG ABUSE. Notwithstanding AS 44.29.110 and 44.29.115, as amended by
26 secs. 21 and 22 of this Act, the members of the Advisory Board on Alcoholism and Drug Abuse who
27 are serving on the effective date of this Act continue to serve their unexpired terms. Vacancies on the
28 advisory board occurring after the effective date of this Act shall be filled by the governor under the
29 provisions of AS 44.29.115, as amended by sec. 22 of this Act.

30 * Sec. 56. TRANSITIONAL PROVISIONS: MEMBERS OF THE ALASKA MENTAL HEALTH
31 BOARD. Notwithstanding AS 47.30.662, as amended by sec. 38 of this Act, the members of the Alaska

1 Mental Health Board who are serving on the effective date of this Act continue to serve their unexpired
2 terms. Vacancies on the board occurring after the effective date of this Act, and new positions created
3 by this Act, shall be filled by the governor under the provisions of AS 47.30.662, as amended by sec. 38
4 of this Act. When making appointments to new positions on the board, the governor shall ensure that
5 the initial terms of new members maintain the staggered term requirement of AS 47.30.663. Insert
Amendment I

6 * Sec. 57. The provisions of AS 37.14.019(d), as added by sec. 10 of this Act, have the effect of
7 amending Alaska Rule of Civil Procedure 82 by requiring the court to award full attorney fees in certain
8 actions.

9 * Sec. 58. This Act takes effect upon incorporation into a final settlement and order approved by the
10 superior court in Weiss v. State of Alaska, 4FA-82-2208 Civil. The superior court shall advise the
11 lieutenant governor and the revisor of statutes when the final settlement and order of Weiss v. State of
12 Alaska has been approved.

MENTAL HEALTH TRUST RECONSTITUTION OPTIONS

1. Fundamental Principles.

- (a) The compensation package must be known and acceptable.
- (b) The compensation must in fact be paid, or payment must be guaranteed (enforceable).

2. Enforceability Options

(a). Transfer of Assets. To the extent assets are transferred to the trust, payment has been made and no enforceability issues exist with respect to the portion of the trust reconstitution being paid with such assets. The following compensation elements follow this approach:

- (i) Transfer of unencumbered land to the trust authority.
- (ii) Transfer of Legislatively Designated Areas to the trust authority.
- (iii) Transfer of selected encumbered land to the trust authority, such as selected land subject to rights-of-ways, municipal selections, leases, coal leases, etc.
- (iv) Transfer of other Assets to the trust authority, such as Kuparak.

The following discussion applies to the portion of the compensation package which is not "paid" for right away, either in money or other property, and which, therefore, requires adequate guarantees of payment.

(b) Execution on State Assets. To the extent that assets are not transferred to the trust authority to satisfy the requirements of the compensation package the state would be making a promise to pay. If a party has a judgment against a private party, the judgment creditor could execute on the judgment debtor's assets. This involves a process server or state trooper taking money from bank accounts, selling real property to pay of the debt, or seizing other assets to "satisfy the judgment." The Sponsor Substitutes for HB 79 & SB 65 provided for this approach to be applied in the event the state did not make required payments to the trust with special provisions regarding extra notice to allow the state to make good on its obligation to pay and specifying the order in which assets were to be executed upon. The Attorney General's Office has indicated this is unconstitutional under Article IX, Sec. 13.. To the extent that it may be

unconstitutional it is not only unacceptable to the Administration but is unacceptable to the plaintiffs.

It has been suggested in connection with HB 59 that under AS 09.55.360 for condemned land, the condemnee may execute to receive payment. An uncritical analysis of this suggestion would allow for the insertion of the condemnation approach taken in HB 59 with respect to the encumbered land. Unfortunately AS 09.55.360 does not refer to Article IX, Sec. 13, and provides that if the judgment is returned unsatisfied that the land must be returned. In the context of the mental health trust, this means that the trust's claims to the land would not be released until payment had been made. It is believed that a final release of claims to trust lands is sought by the legislature. To the extent it may be possible to settle for less the partial release approach discussed next could be used.

At this juncture it would appear that the execution on state assets approach is not viable.

(c) Partial Releases. Another way to provide enforceability is for the trust to release claims on encumbered lands as the state pays for it. Under the compensation approach of the Sponsor Substitutes this would mean that for every dollar of principle reduction, the state could choose an equal value of encumbered land to be released. This is a quite common practice in the commercial world. It is acknowledged that this would not release all the trust's claims on all encumbered land immediately. On the other hand, the state would be allowed to choose the land to release, and with as little as a \$100 million down payment the Plaintiffs believe that the State could achieve the release of lands for which there is a true need for release. Such lands would include development projects being held up, pending property sales, and the like. The partial release option is not optimal from the Plaintiffs' perspective either. However, it is an approach that should be considered by both sides if nothing else will work.

(d) Other Security. Another technique used in the commercial environment is for the debtor to grant the creditor a security interest in property of sufficient value to pay off the debt if the debt is not paid. In a land transaction, a seller normally would prefer a mortgage (a deed of trust is most commonly used in Alaska) on the property being sold. If that were to happen here, it would essentially mean the partial release approach discussed above. Another approach often used is to use other property as security. Thus, it might be possible to issue a deed of trust on the land under which the Kuparak oil field lies.

There are a number of issues surrounding this potential approach. The first is whether the state may issue a deed of trust on property. Unfortunately, the current Attorney General's Office's mode of not assisting the settlement process probably means we will not be able to receive a timely answer to this problem. We are therefore taking an independent look at this.

Initial advice is that there very well may be a constitutional problem with this approach.

The second issue is the adequacy of the security. Normally, a bank would want to have significantly more security for a loan than the amount of the loan. In the case of Kuparak, there is the additional problem that the revenues follow a declining curve, while the current Sponsor Substitutes approach provide for a level payment schedule. One way to handle this would be for the payment schedule to match the Kuparak revenue stream.

3. Stated Objectives of Various Legislators and the Administration. There have been a number of not entirely consistent objectives stated by various legislators and the administration. A summary of the ones that are currently in our memory banks follows:

(a) Make Payment Obligations Doable (Duncan). The Sponsor Substitutes approach was specifically developed to come up with a compensation package that the state could live up to. In the Sen. HESS Committee Substitute for SB 65, the compensation package consists of

- (i) return to the trust 218,000 acres of unencumbered land with a value of about \$106 million;
- (ii) 8% annual rent on the legislative designated of the legislatively designated land valued at \$760 million (\$61 million) revalued every five years according to a formula tied to land values;
- (iii) \$200 million of replacement land selections; and
- (iv) level debt payments for the balance of the amount owed in the amount of \$1,100 million. These level debt payments would be about _____ annually.

(b) Eliminate Rental Payment of Legislative Designated Lands/Trade out Legislative Designated Lands (Carney). Representative Carney, and others, have expressed a strong desire to trade out the legislatively designated land upon which the state has to pay rent to eliminate the rental obligation. The plaintiffs have indicated their willingness to consider such an approach, but that the value of the land has to be comparable and that the land has to be as susceptible for producing revenue. The Director of the Division of Land and Water Management of the Department of Natural Resources has indicated he does not believe there is a sufficient inventory of suitable land, while the Commissioner says it can be found.

There is also the issue of such things as the State selling all the timber or minerals on some legislatively designated land, taking all the money, and then wanting to trade that land on an equal value basis. With the current formulation of the Sponsor Substitutes the plaintiffs were willing to take this risk under

the theory the state was paying for the right to use this land and the risk if the trust ever had to take management of the land back was at an acceptable level. This issue must be looked at again in the context of trading land out of the legislatively designated areas.

Perhaps more of a problem is that the primary proponent of this approach also wants to accommodate the administration's refusal to accept the valuation and it is very difficult to see how the trade out process could work without valuation because the value is needed to determine the value of the land to be subtracted from the 8% rental obligation.

(c) Release the Trust's Claims to Encumbered Land. It has been recognized from the beginning that the state's primary interest in settling the lawsuit is to clear up the title to the one million acres that has now been tied up by the plaintiffs.

(d) Take the Offset. The Administration and Sen. Sturgeslewski have indicated they believe the offset allowed in the Supreme Court decision should be taken. The problem with this approach is that it ignores the other side of the equation, such as the state's obligation to reimburse the trust for the failure to earn income as required, and the improper transfer of trust funds from the mental health trust income account the last few fiscal years. Moreover, the plaintiffs have repeatedly informed the legislature and the administration that since the effect of the offset is to diminish the corpus of the trust, the plaintiffs will attempt to regain title.

(e) Eliminate any Reference to Value and Particularly Not Endorse the Approved Interim Mental Health Trust Commission Procedures. The Administration has stated it will not accept the \$2,243 million valuation arrived at under the process specified in statute. On one hand it states that the value is too high, and on the other hand says that it doesn't want these valuation procedures to be used on it with respect to future land trades. There is an inherent inconsistency with these two statements because to the extent that the procedures are not valid, DNR should prevail in subsequent arguments about its validity. The real problem is that the procedures and the value arrived at is valid and the Administration is simply unwilling to pay what the land is worth.

Various legislators faced with the dispute over valuation have also expressed concern with the valuation. With the changes in the legislation giving the legislature control over expenditures from the trust account, the concern over the compensation package being too large should be substantially lessened.

The reality is, however, that the Plaintiffs have a very good idea of the value of the land, will not sell them for significantly less than the \$2,243 million arrived at under the statutorily arrived at approved procedures. There seems little doubt that the Administration will not now agree to any compensa-

tion package that the plaintiffs would be willing to accept. However, there is still a real question of whether the governor will veto the legislation, and if so, the legislature still has the override option whether it chooses to exercise it or not.

4. Compensation Approach Packages.

(a) Litigation. If no settlement is reached, the compensation package will be determined by litigation. While one can never predict the outcome of litigation with certainty, it appears very likely that legislatively designated lands in the trust will have to be stripped of their legislative designation and managed to generate income for the trust. This would appear to be in line with the current administration's goals. Under private trust law principles adopted by the Alaska Supreme Court and followed in many other states, it appears municipal selections, approved lands and patented lands would be returned to the trust except in the narrowest of circumstances.¹ With respect to other third parties, the outcome would appear to depend on their status as having purchased the land for value without "notice" of the breach of trust. Since the trust status of the land was a matter of the public land records, and the breach of trust was a matter of law, there is a strong argument that no third parties qualify as "bona fide purchasers" entitled to keep their interests free of the trust's claims. Even if not, under private trust law principles, each third party would have to establish their status as a bona fide purchaser.

The stated concerns about the time it will take to "clear title" does not seem to recognize the substantial probability that the litigation will take however long it takes and will end up with cleared titled being held by the trust.

(b) SB65 Approach. The CS SS SB65 (HESS) reconstitution approach has been outlined above. The missing element now is the enforceability of the payment obligation piece. The deed of trust, if permissible, or the partial release approach could be used. The trade out for legislatively designated lands could be incorporated into it, and there is already a mechanism for reducing the payment obligation even more than the required \$200 million in land selections. Expanded selection rights, or a definition of vacant, unappropriated and unreserved land would be a beneficial addition to this bill.

(c) Special House Subcommittee Approach. The Special House Subcommittee on the Mental Health Trust has been interested in exploring the viability of using Kuparak to pay for the encumbered land and trading out the legislatively designated lands. Unless the Attorney General's Office indicates that an assignment of royalties would be permissible and not a violation of the

1. Indeed some municipalities might be liable to the trust for "participation" in the breach of trust.

dedicated fund prohibition, that approach is not an option. Previously, the Attorney General's Office indicated a conveyance of the land containing the Kuparak field would be permissible.¹ The inclusion of the West Sak field has also been a question. The plaintiffs have indicated deleting the West Sak field forces the trust to take the risk associated with ownership of the Kuparak field, but eliminates the upside potential. The plaintiffs also point out that with the new formulation regarding administration of the trust fund and control being given back to the legislature (subject to fiduciary duties) the legislature should have more comfort that any surplus will be returned to the general fund. Finally, at a certain point, reservations of interests begins to make the transaction look like a dedicated fund.

Another way to approach the Kuparak issue (or other assets), is for it to be used as collateral for payment of the debt schedule. If this approach were to be used, the debt schedule would have to be adjusted so that the Kuparak field would fully secure the outstanding debt at all times. Initial advice, however, is that there are constitutional problems with this approach.

Similarly, there are constitutional problems with assigning royalties because it would be a dedicated fund.

The constitutional problems may leave only two choices: conveyance of assets or partial releases (or a combination).

The foregoing is something of a list of options and suggestions and the following will discuss how the options and suggestions might be fashioned into different packages.

(d) Legislative Designation Trade-Outs. The important issue in any kind of mandatory trade-out option from the trust's perspective is that suitable land be traded into the trust. This means equal value and at least as good income production potential as the land traded out. The key to accomplishing this would be making as much land available as possible for trade. The inventory and types of land in the state inventory should be carefully reviewed to ensure the best possible selection pool.

From the State's perspective, it would appear that it would want the legal right to trade out the legislatively designated lands (option). The trust should also probably be given a reciprocal option. To the extent that there is mandate to trade out all of the land, the Trust should be allowed to select the replacement land and a process established to determine the respective exchange values.

As land is traded out, the rent should be reduced by the

1. The administration has certainly not agreed to it substantively.

amount of the rent represented by such land removed from the trust.

It does not appear that invocation of original Supreme Court jurisdiction is warranted for the value determinations. The appointment of a special master may make a lot of sense.

(e) Other Encumbered Land. There may very well be a good deal of valuable trust land that would be considered encumbered under the Sponsor Substitutes, but which could be taken by the trust subject to the third parties' interests. The following categories could be considered:

- (i) Rights of Way. Parcels of lands with an encumbrance of one or more rights-of-way could be considered for retention by the trust. There may be some minor valuation issues, but they could be resolved.
- (ii) Leases. Parcels subject to lease could also be considered, but there would be a significant valuation issue as most of the leases are for below market value.
- (iii) Municipal Selections. Municipal "entitlements" were a significant, if not primary, impetus for the 1978 purported abolishment of the trust which has resulted in the current situation. There is no legal reason why some of these lands could not be returned to the trust. A basis for return could be an equal percentage for each affected municipality. Or it could be based upon the status of such lands as selected, approved, or conveyed. The latter criteria would treat different municipalities differently depending solely upon the happenstance of DNR action on selections. In any case, it would appear that those lands which have either been disposed of by municipalities or committed to some specific use, particularly if improvements exist, would not be returned to the trust.
- (iv) Coal Leases. While the royalty rate for coal leases has been a subject of contention, the total value attributed to coal under the Interim Mental Health Trust Commission's procedures is \$3.2 million. Since the trust would only be charged a percentage of this value for coal lands subject to coal lease, the 5% royalty might very well yield an acceptable return on the "cost" and therefore be acceptable in these limited circumstances.
- (v) Oil & Gas Leases. There would appear to be absolutely no reason not to return to the trust lands that are subject to oil and gas leases.

(vi) Mining Leases. Unfortunately, the state lease rate on minerals is so low (3% of net income) and the problems of making sure even this meager royalty is properly accounted for are so great, the transfer of lands subject to mining claims or leases would appear to involve significant difficulties.

5. Overview. All of these compensation elements, to the extent constitutional and enforceable, can be chosen to arrive at different mixes. The challenge is to find a "mix" that is acceptable to both sides. In terms of drafting it seems that decisions need to be made before drafting may proceed.

HB

80

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 80

Revision Date: 1-30-91 Department Affected: FISH AND GAME
 Title: An Act Modifying the boundaries of the Creamer's Field Migratory Waterfowl Refuge BRU: Habitat
 Component: _____

Sponsor: Representative Boyer

Requestor: _____

COMPONENT SERIAL NO.

4	8	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

Estimate of current year impact: No current year impact

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: [Signature] Phone: 465-4135

Division: Habitat Date: 1-29-91

Approved by Commissioner: [Signature]

Agency: Department of Fish and Game Date: 1/30/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

DEPARTMENT OF FISH AND GAME POSITION PAPER

Bill No: HB 80

Sponsor: Representative Boyer

Division: Habitat

Bill Title: An Act modifying the boundaries of the Creamer's Field Migratory Waterfowl Refuge

Department Position: Support

This measure modifies the legal description for the Creamer's Refuge Migratory Waterfowl Refuge to reflect the 1986 land trade involving the Tanana Valley Fair Association and the 1982 purchase of the original Creamer's barns. Section 2 amends the legal description of the sewer and water easement to make the land subject to the easement, rather than excluding it from the refuge.

The modified legal description was prepared by the Department of Fish and Game in conjunction with the Division of Land and Water Management, Department of Natural Resources. Specific boundary references and the amended easement descriptions were included at DNR's recommendation. The amended easement description is a more legally correct way to describe the easement, and does not affect the easement itself.

Commissioner's Signature

Benn L. Rie

Date 2-14-91

C



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER HB 80	SPONSOR Boyer
SHORT TITLE OF BILL ACT modifying the boundaries of the Creamer's Field Migratory Waterfowl Refuge			
DEPARTMENT POSITION Support			
PREPARED BY Frank Rue, Director	DATE 1/30/91	COMMISSIONER'S SIGNATURE <i>William G. Wilbur</i>	DATE 1/30/91

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL None known
ORGANIZATIONAL SUPPORT FOR BILL Creamer's Refuge Advisory Committee	ORGANIZATIONAL OPPOSITION TO BILL None known

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

This measure modifies the legal description for the Creamer's Refuge Migratory Waterfowl Refuge to reflect the 1986 land trade involving the Tanana Valley Fair Association and the 1982 purchase of the original Creamer's barns. Section 2 amends the legal description of the sewer and water easement to make the land subject to the easement, rather than excluding it from the refuge.

ANALYSIS OF BILL/PROGRAM EFFECTS

The modified legal description was prepared by the Department of Fish and Game in conjunction with the Division of Land and Water Management, Department of Natural Resources. Specific boundary references and the amended easement descriptions were included at DNR's recommendation. The amended easement description is a more legally correct way to describe the easement, and does not affect the easement itself.

AMENDMENTS PROPOSED

None.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

MEMORANDUM

STATE OF ALASKA
DEPARTMENT OF FISH AND GAME

TO: Molly McCammon
Special Assistant to the Commissioner
Office of the Commissioner
Juneau

DATE: December 14, 1990

COMMISSIONER'S OFFICE

RECEIVED
DEC 18 1990

FILE NO:

THRU: Christian A. Smith
Regional Supervisor

TELEPHONE: 456-5156

FROM: Marguerite A. Matthews
Wildlife Biologist
Division of Wildlife Conservation
Fairbanks

SUBJECT: Amendment to
Creamer's Field
Legal Description

DEPARTMENT OF FISH AND GAME

Attached is a draft bill containing the revised legal description for Creamer's Field Migratory Waterfowl Refuge. Because the legal description is so complex and there were so many changes to the existing statute, I thought it would be more clear to put it in the form of a draft bill, rather than someone having to guess at how the statute should read. The format of the bill may not be exactly right, but the intent should be clear.

The changes in Sections 1 and 2 reflect the land trade involving the Tanana Valley Fair Association and the addition of the barns to the refuge. In addition, a number of phrases referencing boundary features such as College Road, Lemeta Subdivision and Isabella Creek have been inserted to clarify the intent of the legal description. Section 3 changes the wording of the water and sewer easement legal description to make the land subject to the easement, rather than excluding the easement. This is a more legally correct way to describe the easement, and does not affect the easement itself. This and the boundary references were done at the suggestion of the Department of Natural Resources.

The legal description was drafted in conjunction with the Division of Land and Water Management, Department of Natural Resources. DNR will be happy to provide us with a letter verifying the accuracy of the legal description if we need it.

I am enclosing a diskette with the bill in both WordPerfect and Microsoft Word files in hopes that it won't have to be re-typed in Juneau, as typing and proof-reading these legal descriptions is a real chore. Feel free to call me any time if you have any questions or need any help.

Thank you in advance for your assistance in getting this bill through.

cc: Bruce
McLean
Taylor

Attachments



Statewide Office of Land Management
Butrovich Building • Suite 211 • 910 Yukon Drive • Fairbanks • Alaska • 99775
(907) 474-7421 • FAX: (907) 474-7554

VIA FACSIMILE #465-4565

February 1, 1991

Ms. Alexis Miller
Office of Representative Mark Boyer
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

RE: House Bill 80

Dear Ms. Miller:

In response to your request, I have reviewed the map you faxed, as well as the legal descriptions contained in HB 80.

In 1982, as part of the settlement of litigation, the University relinquished to the State of Alaska, its interest in a 41.697 acre portion of Section 33 described as Tract B of Alaska State Land Survey No. 80-67, in exchange for equal value land elsewhere in the state.

A 14.149 acre portion of the property relinquished to the state, which is currently described as Tract B2 of ASLS No. 83-62, is included in the revised legal description of the Refuge contained in HB 80.

In addition, although unrelated, I would like to make you aware of the fact that the University and the Department of Fish and Game have been discussing the acquisition, by Fish and Game, of a substantial amount of University land west of the current refuge boundaries.

If you need additional information, please contact me at 474-7421.

Very Truly Yours,

Martin Epstein
Director

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

BILL NO. HB 80

Revision Date: 8-Feb-91 Department Affected: Natural Resources
 Title: Creamer's Field Migratory BRU: Land & Water Management
Waterfowl Refuge Components: Land & Water Management
 Sponsor: Representative Boyer
 Requestor: House Resources COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						
---------	--	--	--	--	--	--

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						

Estimate Current year impact:

IS: (Attach a separate page if necessary)

Prepared by: Carol Wilson Phone: 465-2400
 Division: Commissioner's Office Date: 8-Feb-91
 Approved by Commissioner: Harold Heinze Date: 8-Feb-91
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

February 20, 1991.

The Honorable Cliff Davidson, Chair
House Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Davidson:

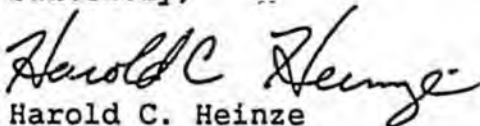
Subject: HB 80, which modifies the boundaries of the Creamer's Field Migratory Waterfowl Refuge.

Position: The Department of Natural Resources supports this bill because it modifies the existing refuge boundaries to conform to land ownership changes that have occurred since the refuge was established.

Background: The Creamer's Field Migratory Waterfowl Refuge was designated by statute in 1979. Subsequent exchanges of land among the University of Alaska, the Department of Natural Resources, and the Department of Fish and Game have resulted in significant ownership changes within the boundaries of the refuge. This bill would establish the new boundaries clearly in statute.

Thank you for the opportunity to comment on this bill.

Sincerely,

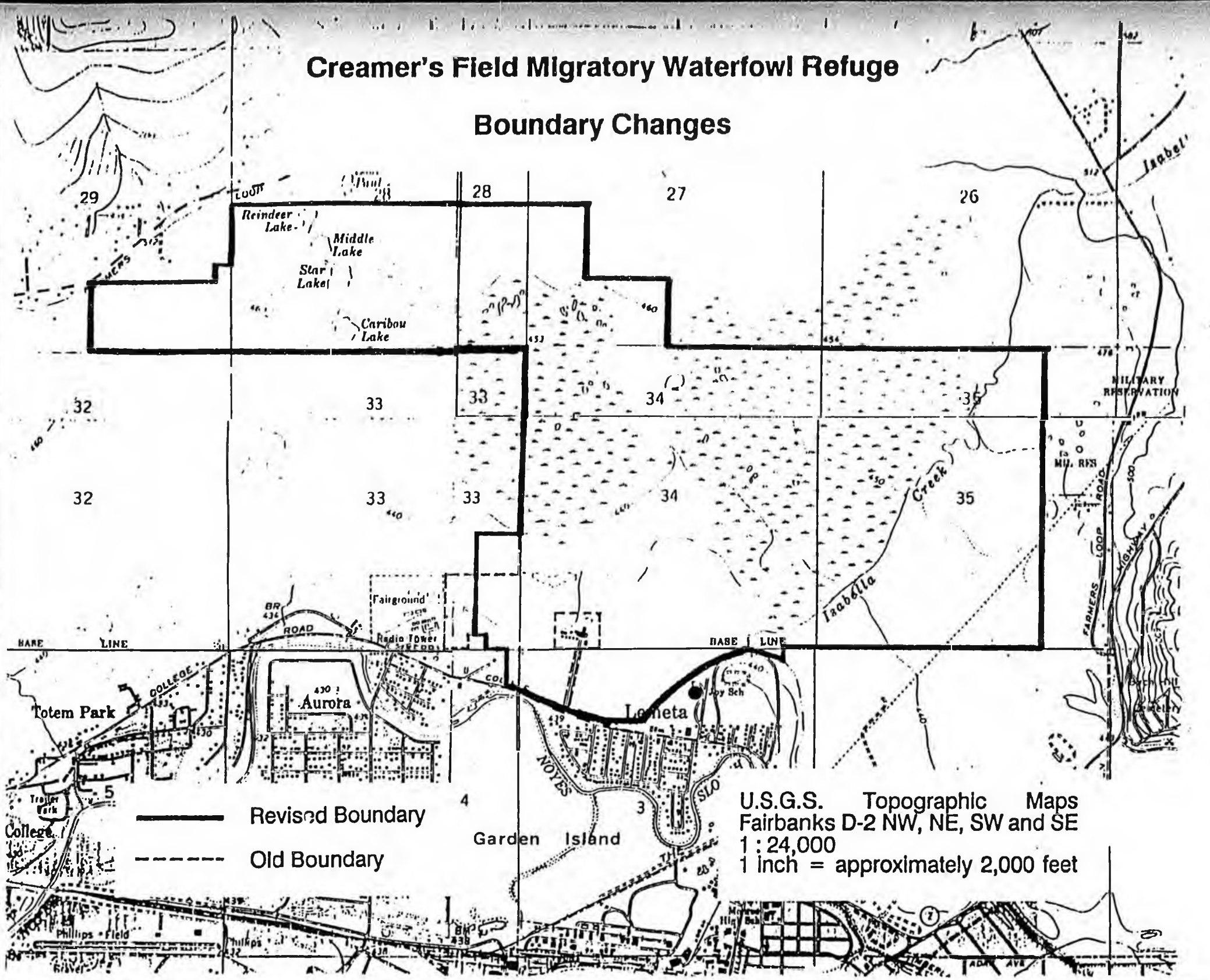


Harold C. Heinze
Commissioner

cc: Committee members
Representative Boyer
Bruce Kendall, Legislative Liaison, Office of the Governor
Carl Rosier, Commissioner, Department of Fish and Game

Creamer's Field Migratory Waterfowl Refuge

Boundary Changes



Revised Boundary
 Old Boundary

U.S.G.S. Topographic Maps
 Fairbanks D-2 NW, NE, SW and SE
 1 : 24,000
 1 inch = approximately 2,000 feet

State of Alaska

Legislatively Designated Areas



Alaska Department of
**NATURAL
RESOURCES**

Areas designated by the legislature include sanctuaries, game and wildlife refuges, critical habitat areas, state forests and parks, public use areas, recreation rivers, recreational mining areas, and bison and moose ranges. Please note that most figures are approximate and many acres included are tidal or submerged.

Fish & Game Designations (AS 16.20)

Sanctuaries

	<u>Statute</u>	<u>Acres</u>
McNeil River State Game Sanctuary	(AS 16.20.160-170).....	83,800
Walrus Island State Game Sanctuary	(AS 16.20.090-140).....	9,700
Stan Price State Wildlife Sanctuary.....	(AS 16.20.150).....	613
Total sanctuary acres		94,113

Game Refuges

Anchorage Coastal Wildlife Refuge	(AS 16.20.031).....	32,500
Cape Newenham State Game Refuge	(AS 16.20.030).....	14,000
Creamer's Field Migratory Waterfowl Refuge	(AS 16.20.039).....	1,664
Goose Bay State Game Refuge	(AS 16.20.030).....	10,880
Izembek (Lagoon) State Game Refuge	(AS 16.20.030).....	181,440
Mendenhall Wetlands State Game Refuge	(AS 16.20.034).....	3,800
Minto Flats State Game Refuge.....	(AS 16.20.037).....	500,000
Palmer Hay Flats State Game Refuge	(AS 16.20.032).....	26,000
Susitna Flats State Game Refuge.....	(AS 16.20.036).....	300,800
Trading Bay State Game Refuge	(AS 16.20.038).....	160,960
Yakataga State Game Refuge	(AS 16.20.033).....	82,000
Total refuge acres		1,314,044

Critical Habitat Areas

Anchor River & Fritz Creek Critical Habitat Area.....	(AS 16.20.605).....	19,000
Chilkat River Critical Habitat Area	(AS 16.20.585).....	4,800
Cinder River Critical Habitat Area	(AS 16.20.560).....	26,000
Ciam Gulch Critical Habitat Area	(AS 16.20.595).....	2,500
Copper River Delta Critical Habitat Area	(AS 16.20.600).....	597,000
Dude Creek Critical Habitat Area	(AS 16.20.610).....	4,083
Egegik Critical Habitat Area	(AS 16.20.565).....	8,000
Fox River Flats Critical Habitat Area	(AS 16.20.580).....	7,100
Kachemak Bay Critical Habitat Area	(AS 16.20.590).....	222,000
Kalgin Island Critical Habitat Area	(AS 16.20.575).....	3,500
Pilot Point Critical Habitat Area	(AS 16.20.570).....	46,000
Port Heiden Critical Habitat Area	(AS 16.20.555).....	72,000
Port Moller Critical Habitat Area	(AS 16.20.550).....	127,000
Redoubt Bay Critical Habitat Area.....	(AS 16.20.625).....	183,640
Tugidak Island Critical Habitat Area.....	(AS 16.20.615).....	50,240
Willow Mountain Critical Habitat Area	(AS 16.20.620).....	22,720
Total critical habitat acres		1,395,583

Forestry Designations (AS 41.15-17)

Haines State Forest Resource Management Area	(AS 41.15.300-330)	247,000
Tanana Valley State Forest	(AS 41.17.400).....	1,786,000
Total forestry acres		2,033,000

Park Units (AS 41.21-23)

Alaska Chilkat Bald Eagle Preserve	(AS 41.21.611-630)	49,000
Caines Head State Recreation Area	(AS 41.21.435-445)	5,961
Captain Cook State Recreation Area	(AS 41.21.415-425)	3,620
Chena River State Recreation Area	(AS 41.21.475-490)	254,080
Chilkat State Park	(AS 41.21.111-120)	6,045
Chugach State Park	(AS 41.21.121-125)	495,000
Denali State Park	(AS 41.21.151-152)	421,120
Kachemak Bay State Park	(AS 41.21.131-134)	165,370
Kachemak Bay State Wilderness Park	(AS 41.21.140-143)	210,240
Kenai River Special Management Area	(AS 41.21.502-514)	2,693
Nancy Lake State Recreation Area	(AS 41.21.455-465)	22,685
Point Bridget State Park	(AS 41.21.181-183)	2,800
Shuyak Island State Park	(AS 41.21.172-178)	11,000
Willow Creek State Recreation Area	(AS 41.21.491-495)	3,583
Wood/Tikchik State Park	(AS 41.21.161-167)	1,428,320
Marine Parks:	(AS 41.21.300-306)	*31,882
Beecher Pass	Entry Cove	Oliver Inlet
Bettles Bay	Funter Bay	Safety Cove
Big Bear/Baby Bear Bays	Granite Bay	Saint James Bay
Boswell Bay Beaches	Horseshoe Bay	Sandspit Point
Canoe Passage	Jack Bay	Sawmill Bay
Chilkat Islands	Joe Mace Island	Security Bay
Dall Bay	Kayak Island	Shelter Island
Decision Point	Magoun Islands	Shoup Bay
Driftwood Bay		South Esther Island
		Sullivan Island
		Sunny Cove
		Surprise Cove
		Taku Harbor
		Thoms Place
		Thumb Cove
		Zeigler Cove
*does not include acres of water	Total park acres	3,113,399

Other Designations

Caribou Creek Recreational Mining Area	(AS 41.23.600-620)	250
Delta Junction Bison Range Area	(AS 16.20.300-320)	*72,000
Ernie Haugen Public Use Area	(AS 41.23.050-080)	420
Goldstream Public Use Area	(AS 41.23.140-170)	3,115
Hatcher Pass Public Use Area	(AS 41.23.100-130)	5,100
Matanuska Valley Moose Range	(AS 16.20.340-360)	**132,500
Nelchina Public Use Area	(AS 41.23.010-040)	2,350,000
Recreation Rivers:	(AS 41.23.400-510)	***243,000
Alexander Creek	Kroto & Moose Creek	
Lake Creek	Little Susitna River	
Talachulitna River	Talkeetna River	
	Total other designations	2,806,385

* does not include additional 17,500 acres within military withdrawal

** does not include selected land

*** does not include borough or private land

Total Acreage

Fish & Game designations	2,803,740
Forestry designations	2,033,000
Park designations	3,113,399
Other designations	2,806,385
TOTAL	10,756,524

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Center for Alaskan Coastal Studies

P.O. Box 2225 Homer, Alaska 99603 907/235-6667

The goal of the Center for Alaskan Coastal Studies, a non-profit organization, is to increase knowledge and understanding of the coastal and marine environments of Alaska by providing educational programs and encouraging research. Supported by approximately 500 paid memberships and numerous volunteers, the Center now delivers educational programs to approximately 1600 students and visitors every year.

The nucleus of the Center's programs is a marine field station on what is called locally the "Island Peninsula," a point of land between Peterson Bay and China Poot Bay, on the south side of Kachemak Bay. Covering this peninsula is a sub-arctic rain forest which is nearly surrounded by rich intertidal areas.

Approximately one half of those served by the Center's programs are children, grades one through twelve, locally and from as far as 500 miles away. In the spring and fall, school groups visit the field station accompanied by trained volunteer naturalists. During the summer months, visitors from all over Alaska, the rest of the United States and other countries visit the Center under the guidance of volunteer naturalist/guide teams.

The forest of the Island Peninsula, explored by hundreds of Alaskan school children every year, along with inholdings within Kachemak Bay State Park, is slated for clear-cutting if the Park buy-back (House Bill 83) does not pass. Within site and sound of the richest intertidal study pools will be a log transfer station.

However, if House Bill 83 succeeds, the timber owner (Timber Trading Company) has agreed to give the timber on the Island Peninsula to the Center, and the owner of the land (Seldovia Native Association) has agreed to sell it to the Center. Thus, in addition to restoring the private inholdings in Kachemak Bay State Park to the public in perpetuity, passage of House Bill 83 will enable the Center for Alaskan Coastal Studies to continue to provide its award-winning educational programs to the children of Alaska and other students of nature, while protecting the unique and beautiful Island Peninsula for the study and enjoyment of future generations.

LOGGING IN
KACHEMAK BAY STATE PARK:
PUBLIC VALUES AT RISK

Executive Summary

Anne Wieland
Kachemak Bay Citizens Coalition
Box 15242 FCB
Homer, AK 99603

February 1991



recycled paper

INTRODUCTION

Study of values at risk:

The purpose of this study is to review some of the economic and intrinsic values of the Kachemak Bay State Park area, to educate the reader about what is at stake if the Seldovia Native Association and Timber Trading Company inholdings are not purchased for inclusion in Kachemak Bay State Park. The study was designed to document these values statistically through the use of surveys and research of information from agency and documentary sources. The survey methods employed were the development and distribution of questionnaires.

Study author and funding:

The primary author of the study is Anne Wieland, retired Anchorage School District science teacher and long time resident of Anchorage and Homer. Wieland, a member of the Kachemak Bay Citizens Coalition, works in Homer in the summer as a marine biology counselor and as a sea kayak guide. Assistance with the study was provided by numerous Homer and Anchorage residents. The study was funded by donations from a few individuals. Several specialists served as volunteer editors.

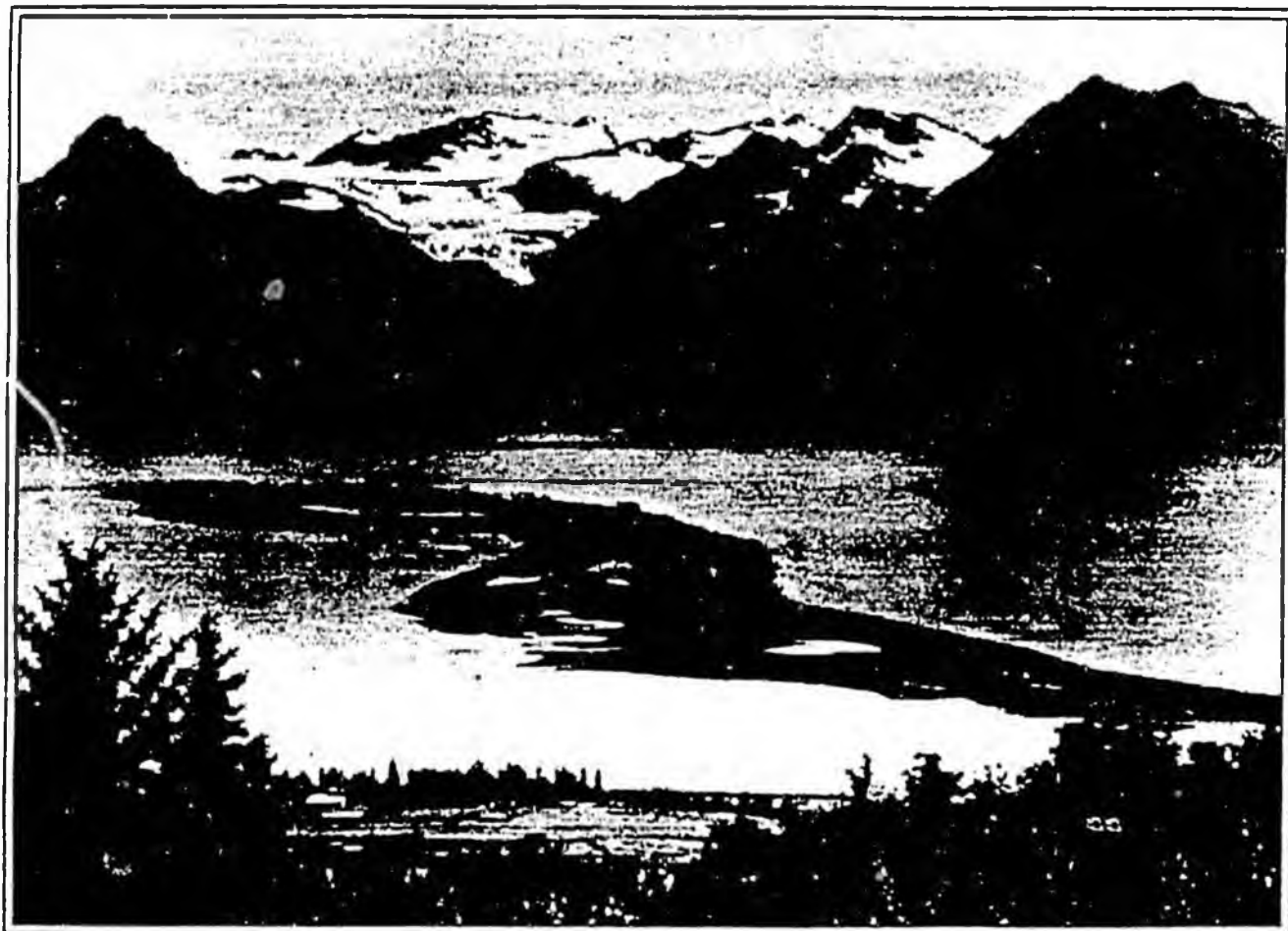


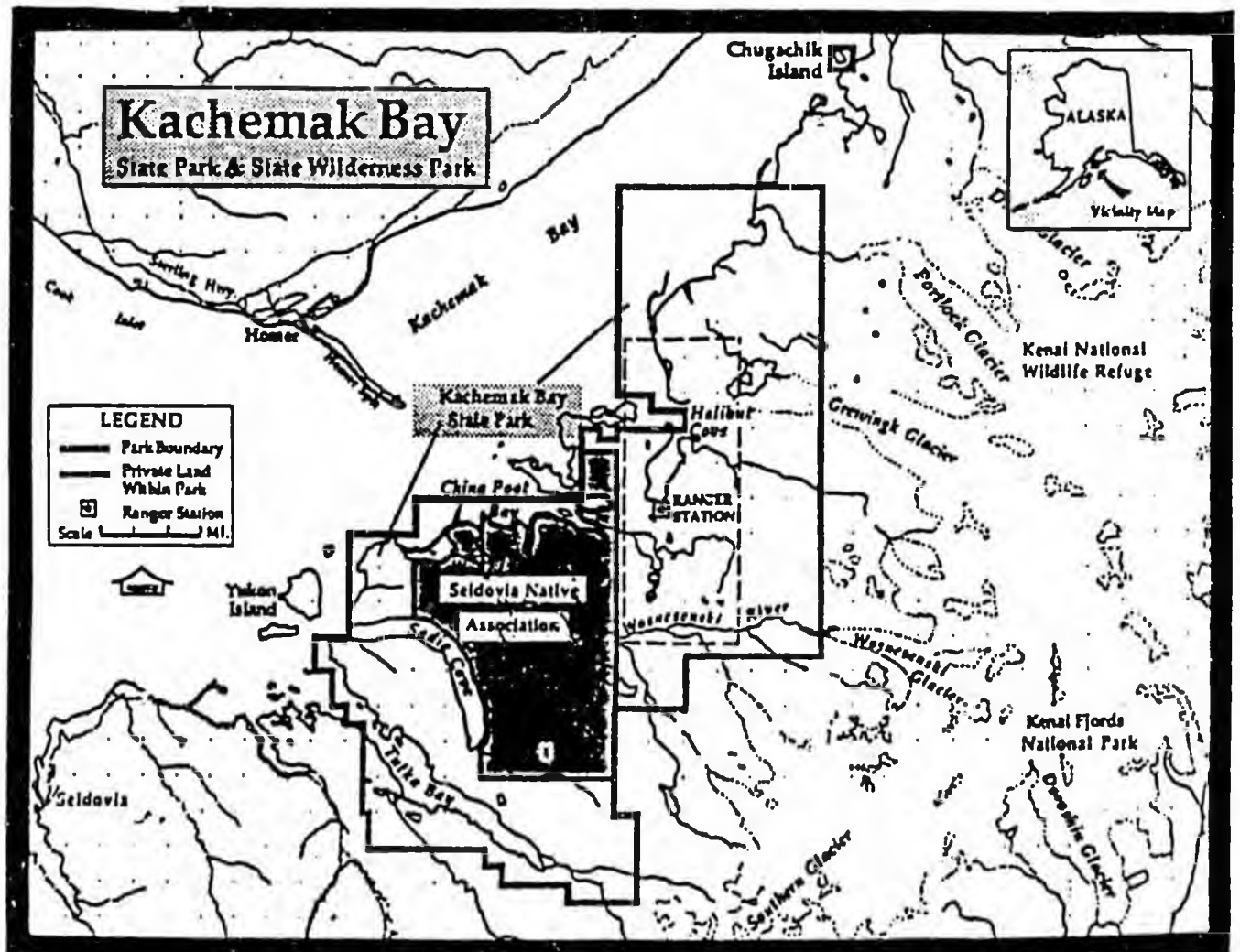
Photo by: Hal Spence Photography

BACKGROUND:

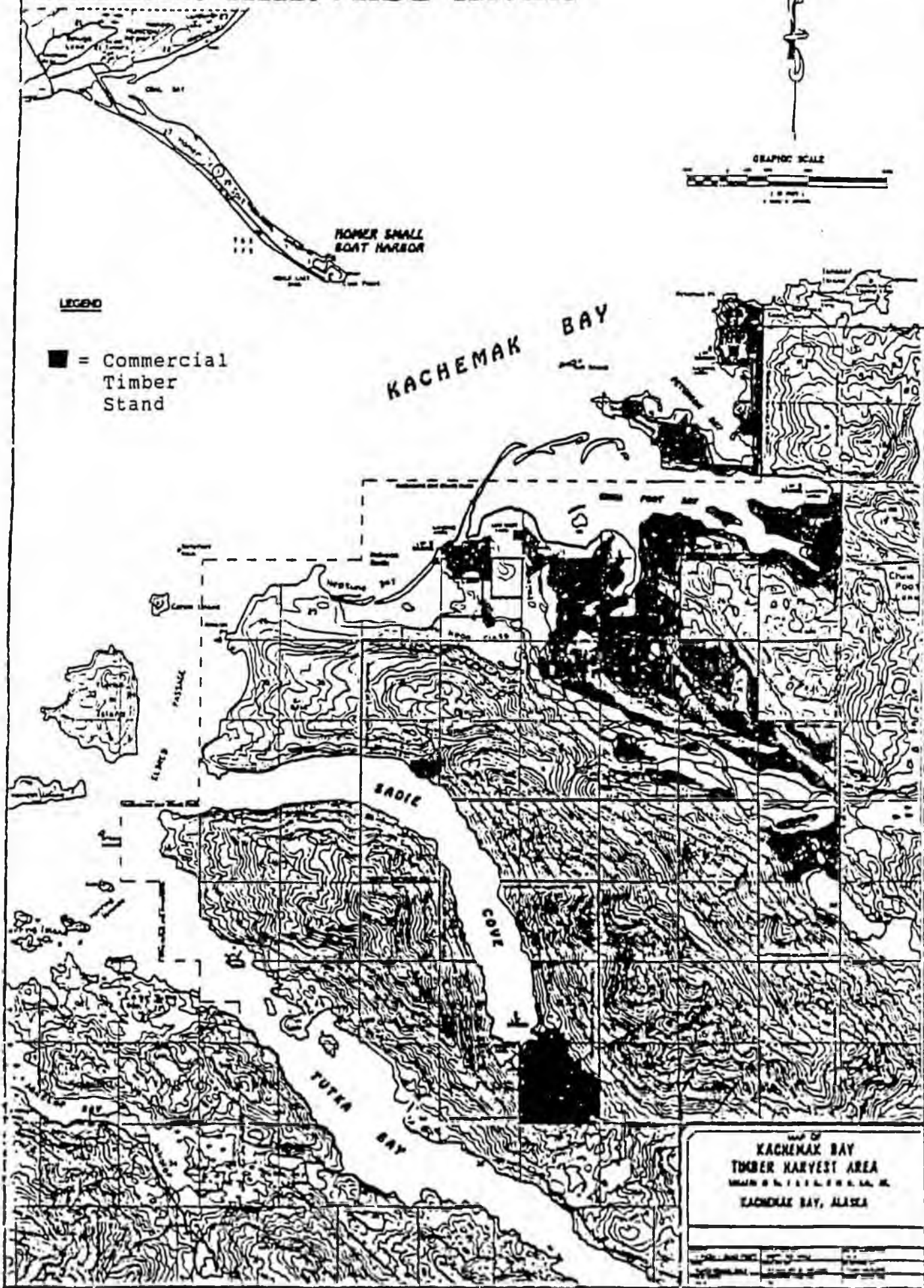
The Alaska Native Claims Settlement Act entitled Seldovia Native Association (SNA) to select 69,000 acres in the Seldovia area. SNA's preferred selections, Jakolof Bay lands, were protested by the state, so in 1974, SNA selected nearly 30,000 acres in and adjacent to Kachemak Bay State Park. In 1979, SNA signed a Memorandum of Understanding with the Kenai Peninsula Borough, Cook Inlet Region, Inc. and the state Department of Natural Resources (DNR) agreeing to exchange SNA's inholdings for state land of equal value. Some small exchanges subsequently occurred.

In 1987, when the complete exchange still had not been consummated, SNA signed a 12 year timber harvest contract with Timber Trading Company (TTC) on land within and adjacent to the park. Kachemak Bay Citizens Coalition (KBCC) formed to serve as facilitator to encourage DNR, SNA, and TTC to enter into exchanges. In the 1990 legislative session these proposed land and timber exchanges were transformed into a \$20 million buy-back which failed by a 20-20 vote in the House.

TTC submitted logging permit applications in January, 1991 and has reiterated its intention to harvest if the buy-back fails in the 1991 legislative session.

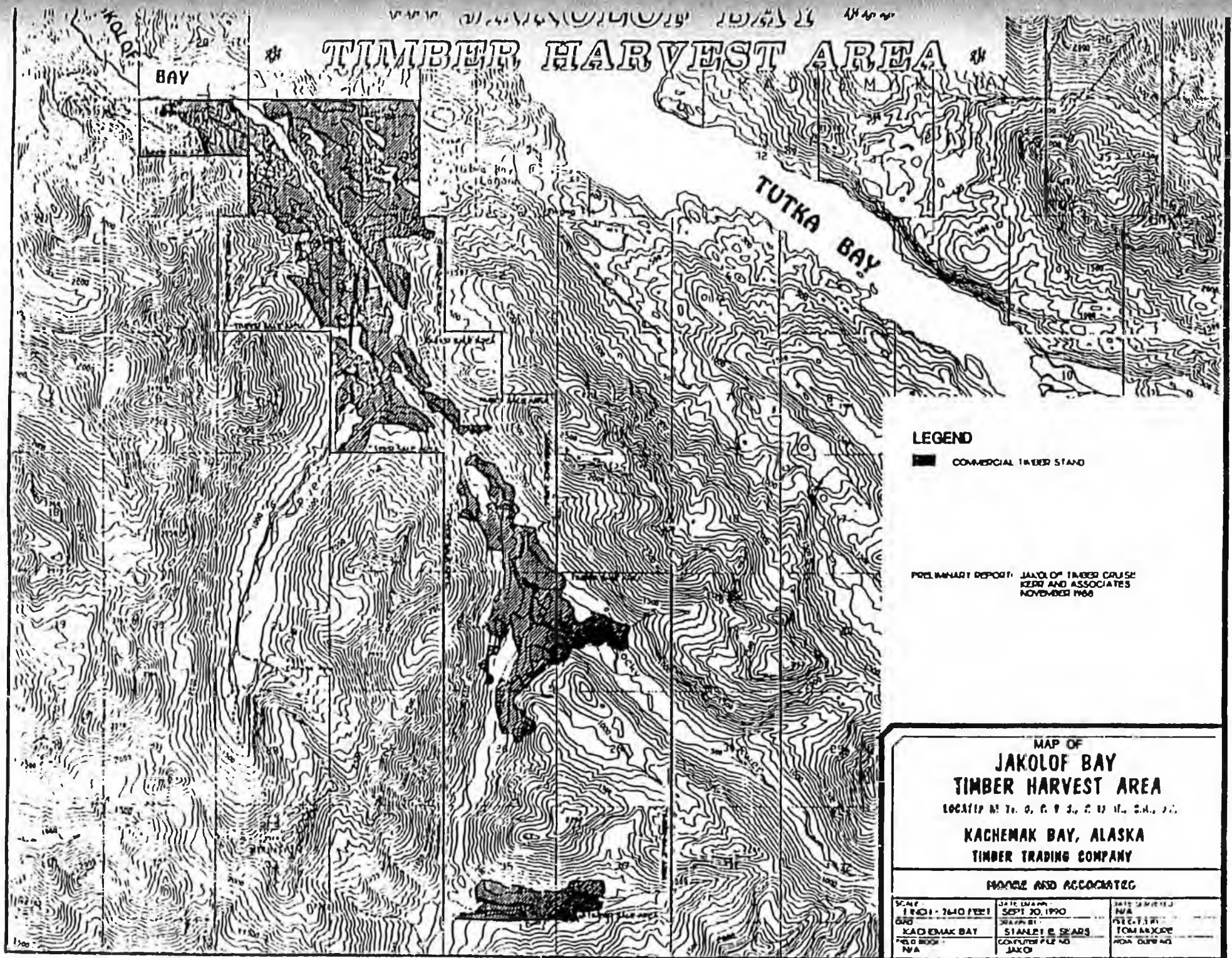


KACHEMAK BAY TIMBER HARVEST AREA



U.S. GEOLOGICAL SURVEY

TIMBER HARVEST AREA



LEGEND

■ COMMERCIAL TIMBER STAND

PRELIMINARY REPORT: JAKOLOF TIMBER CRUISE
KEPP AND ASSOCIATES
NOVEMBER 1968

MAP OF
JAKOLOF BAY
TIMBER HARVEST AREA

LOCATION: N. T. 0, R. 9 S., S. 12 W., S. 4, T. 1

KACHEMAK BAY, ALASKA
TIMBER TRADING COMPANY

PHONE AND ADDRESSES

SCALE 1 INCH = 240 FEET	DATE DRAWN SEPT 20, 1990	DATE SHOWN N/A
GRID KACHEMAK BAY	DRAWN BY STANLEY E. SEARS	FIELD TECH. TOM MACKAY
FIELD BOOK N/A	COMPUTER FILE NO JAKO	PHOTO GARY MO

IMPACT OF PURCHASE OF INHOLDINGS ON PARK MANAGEMENT:

Purchase of inholdings within and adjacent to Kachemak Bay State Park will have several major positive impacts on this popular park. Significant recreational and scenic values as well as habitat will be acquired and preserved. The integrity of the park will be maintained instead of perpetuating the "doughnut hole" situation that currently exists with the heart of the park in private ownership. Opportunities to develop new trails, trailheads, ranger stations, campsites and access points will exist.

Acquisition will improve boundary definition. Many people are unfamiliar with the location of current park boundaries, particular in non-contiguous portions of the park away from the Halibut Cove Lagoon ranger station.

Kachemak Bay has been designated as a State Critical Habitat Area by the Alaska Legislature and is managed by the Alaska Department of Fish and Game and the Department of Natural Resources. Acquisition of private inholdings will protect park lands and waters adjacent to private inholdings from the disruption to the ecosystem that would occur as a consequence of logging.

Impact of adjacent logging:

Impact of adjacent logging on Kachemak Bay State Park would be negative. Management would be reactive, not proactive, because of multiple impacts on trails and access points, visitor use, boundary problems such as definition and trespass, and new law enforcement needs. Low flying helicopters may create noise pollution for park users. Additionally, there would be negative impacts on anadromous streams and wildlife habitat. The possibilities exist for increased topsoil erosion as a result of cutting on slopes, fire through carelessness, as well as enhanced conditions for spruce bark beetles such as windthrow in areas adjacent to clearcuts.

ECONOMIC VALUES AT RISK IF THE BUY-BACK FAILS AND LOGGING OCCURS:

Tourism and fisheries are the mainstays of the Homer economy. This report documents the impacts to these and other industries if logging is allowed to occur. Homer is a very popular tourist destination, having been visited by about 76,000 out-of-state or foreign residents six years ago (Alaska Division of Tourism 1985 estimates), by at least an equal number of Alaskans, and by a high percentage of Anchorage residents (The McDowell Group of Juneau study).

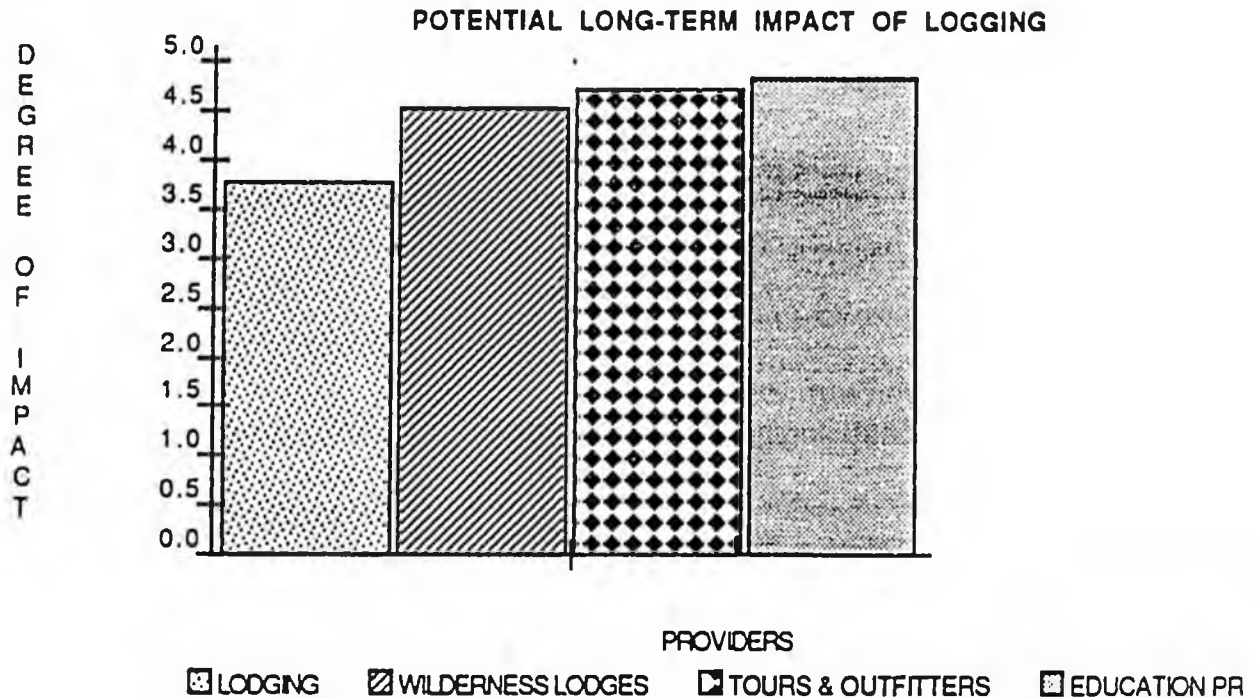
Impacts on tourism:

Seventy-four tourism-related area businesses were surveyed for this study, representing only a fraction of the Kachemak Bay focused tourism-related businesses. Surveyed were providers of lodging, education programs, tours and outfitters, and wilderness lodges. There were forty responses (54%). Others not surveyed because of study funding constraints include restaurants and other businesses on Homer Spit, liquor stores, boat storage yards, souvenir, general merchandise and tackle shops, and the owners of the cruiseships Sagafjord, S.S.Universe, Lindblad Explorer, etc. which make several calls per season to Homer.

Opinions about potential impact of logging:

The providers of goods and services were asked to predict the short and long term impact on their businesses if clearcut logging were to occur on SNA's land in and adjacent to Kachemak Bay State Park. The following chart summarizes the respondents' predictions of the long term impact.

The scale is 1 = strongly positive impact to 5 = strongly negative impact.



The twenty-one responding providers of goods and services most connected with the south side of Kachemak Bay (wilderness lodges, tours & outfitters, and education programs) were almost unanimously negative in their perception of the possible impact of logging on their businesses. For several, logging would necessitate relocation, if that were even economically feasible, with extreme disruption to the owners or operators.

The opinions of lodging providers, most of whom are based in Homer and Anchor Point, were divided about the potential impact of logging. The majority (68%) thought logging would have slightly or strongly negative impact on their businesses and gave a wide variety of reasons for their positions.

Over 200 jobs provided by surveyed businesses:

The following table shows the estimated over 200 seasonal and permanent jobs provided by the 74 surveyed businesses in 1990 in the Homer area and elsewhere.

PROVIDERS OF GOODS AND SERVICES - NUMBERS OF JOBS

	LODGING	WILDERNESS LODGES	TOURS & OUTFITTERS	EDUCATION PROGRAMS
NUMBER OF SEASONAL JOBS:	Not Given	26 (3 lodges)	20	24.5

TOTAL REPORTED JOBS = 70.5

EXTRAPOLATED SEASONAL JOBS:	Over 100 est.	32	45	30
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TOTAL ESTIMATED JOBS = OVER 200 (SOME ARE YEAR-ROUND)

The 21 responding wilderness lodges, tours and outfitters, and education programs provided 70.5 seasonal jobs. If all 34 businesses had responded, this figure may be extrapolated to over 100 jobs.

The lodging providers served an estimated 1/2 million people in the peak season, and employ between 75-150 people. Adding their estimated figures to the ones reported by the other three categories yields over 200 jobs in just the four categories of goods and services surveyed.

Gross incomes of surveyed businesses:

The following table shows the gross incomes of the 74 tourism-related businesses that were surveyed.

PROVIDERS OF GOODS AND SERVICES - GROSS INCOME

	LODGING	WILDERNESS LODGES	TOURS & OUTFITTERS	EDUCATION PROGRAMS
GROSS INCOME	Not Given	(3 only) \$500,000.00	(7 only) \$455,000.00	\$123,000.00
EXTRAPOLATED INCOME	\$7 million est.	\$650,000.00	\$1,026,000.00	\$150,000.00

TOTAL ESTIMATED INCOME = OVER \$8.8 MILLION

The total income reported by the responding tours, wilderness lodges, and education programs for 1989 or 1990 was \$1,078,000. If all had responded, this figure may have reached \$1,826,000. Add to that the estimated yearly \$7 million gross income of lodging providers, and the total rises to over \$8.8 million.

In summary, the responses reflect a workforce of 200 jobs. Obviously, there is great concern by these employers that many jobs will be sacrificed if logging occurs. The responses also represent an industry which serves an estimated half million people and provides an income estimated at over \$8.8 million.

Interdependence of tourist industry:

The great majority of the persons served by the forty responding tourism-related businesses were from the south 49 states, southcentral Alaska, or elsewhere in Alaska. Only about 8% were from Homer. Therefore it can be expected that if logging occurs, not only these businesses but many other tourism-related businesses in the Homer area may be adversely affected. Some of these businesses are owned or operated by interests outside of Homer and even outside Alaska. Responding businesses reported their clients frequently incurred other expenses while visiting Homer. Wilderness lodges reported making major purchases in Anchorage as well as in Homer and elsewhere in Alaska.

Survey of non-Homer people on the Homer Small Boat Harbor waiting list:

One hundred non-Homer people on the Homer Small Boat Harbor moorage waiting list were surveyed. The majority of 49 respondents, many of whom currently transport their boats to and from Homer, would reduce the number of trips to Kachemak Bay if logging occurred. They included strongly worded negative comments about the consequences of logging on their boating habits, including the willingness to transport their boats and build elsewhere.

The demand for recreational use of Kachemak Bay comes from around the state and elsewhere. Of the 414 people currently on the waiting list, 35% are from Homer. Anchorage area residents, (28%), Matanuska-Susitna Valley residents, (4%), and Fairbanks area residents (3%) total an equal number. Soldotna and Kenai area residents comprise 9% and 8% respectively. Residents of other Alaskan towns and south 49 states comprise the remaining 13%. Of the over 700 boats currently moored in Homer Small Boat Harbor just under half, 48.9%, belong to Homer residents. Anchorage residents own 21.9%, second behind Homer.

IMPACTS ON COMMERCIAL AND SPORT FISHING:

Fishing is a major contributor to the Homer economy. Both commercial finfish and shellfish fisheries provide many jobs and bring millions of dollars into the local and the Kenai Peninsula economies annually. Sport fishing is given as the number one reason why clients of area lodging providers come to Homer, and the ADF&G sport fish summary statistics support this conclusion.

Finfish fisheries:

Species fished include halibut, all five salmon species, dolly varden, and rainbow trout in lakes. Salmon fisheries at risk include commercial seining, commercial and personal use setnetting, sport and dipnet fishing in areas slated for clearcut logging. In 1989, 64 southern district seiners and 23 setnetters fished. Yearly delivery of salmon averages \$1.9 million (ex-vessel value.) Commercial fishermen interviewed for this study say logging may damage ADF&G salmon enhancement projects and have a variety of negative impacts on salmon streams. They also comment that logging debris may escape into the water, as happened twice at nearby Koyuktoik Bay in 1990, creating entanglement problems.

To a lesser degree, commercial and charter halibut fisheries within Kachemak Bay are at risk. The halibut charter industry, a major contributor to the Homer economy, yielded \$9 million in 1985. Seventy-five percent of interviewed charter owners thought that logging may have a slightly negative impact on their business, primarily through loss of tourists no longer attracted by disfigured scenery, and by potential entanglement and safety hazards.

Shellfish fisheries:

Shellfish fisheries such as commercial and sport Dungeness and Tanner crab, clam, and mussel fisheries are also at risk from pot entanglement with debris and from accidental bark loss in water which damages habitat.

BOATING SAFETY CONCERNS:

Partially submerged floating logging debris is a safety issue mentioned by both commercial and sport fishermen. Recreation boats particularly are vulnerable because they are less likely to be equipped with radar. Since it takes the waters of Kachemak Bay an average of 27 days to exchange, loose logs and debris could present a long term hazard, increasingly so as logs become waterlogged and float lower in the water. Although the plans of Timber Trading Company are to prevent logs getting loose in the water, two such incidents occurred in nearby Koyuktoik Bay in 1990.

SURVEY OF HOMER RESIDENTS:

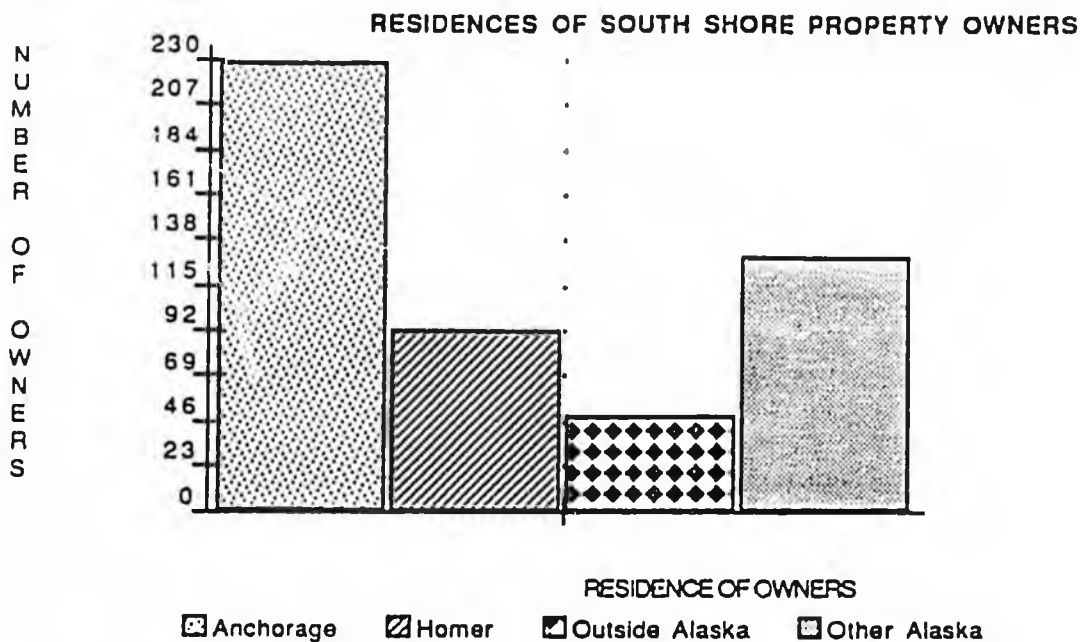
Eighty percent of 60 Homer adults contacted in a random telephone survey in October oppose logging, citing a variety of economic, esthetic, and environmental reasons. Only 8% favor logging.

SURVEY OF IMPACTS ON REAL ESTATE VALUES:

Sixty percent of responding real estate professionals predict a 10% decline in real estate values in Homer (\$27 million assessed value loss) if clearcutting occurs, and other factors remain constant. One consequence would be loss of tax revenues.

Many out-of-town people retire in Homer or have a second home here because of the high scenic and recreational values and proximity to major population centers. These owners as well as long-time Homer residents would be affected, according to realtors.

A significant decline in south shore Kachemak Bay property values near clearcuts is also predicted, but with an increase in values farther away, because of the unique nature of the south shore. The largest number of the 495 south shore land owners, 46.1%, are from Anchorage and would be the most affected.



INTRINSIC VALUES AT RISK IF THE BUY-BACK FAILS AND LOGGING OCCURS:

Scenic values:

The proposed clearcut would be visible from Homer, Homer Spit, and elsewhere in the bay and park areas. As determined by the survey of Homer residents, the lost scenic values would be greatly missed by 82%, most of whom oppose logging. Based on other southern Kenai Peninsula tree regrowth rates, evidence of this logging may be visible for close to 50 years.

Recreational values:

Most Homer residents (85%) visit the south side of Kachemak Bay for a variety of recreational uses ranging from fishing, hiking, sightseeing, berry picking, hunting, trapping, skiing, flying, to even rockhounding. A large number (72%) say that logging would diminish their enjoyment of these lands. Fourteen percent say that they would stop using the lands altogether.

Cultural values:

There is a rich cultural heritage consisting of over 100 prehistoric and historic sites in Kachemak Bay documented by the Alaska Heritage Resources Survey, some dating to as early as 6000 years ago. Undoubtedly, based on the large number of new finds of the October 1990 survey, many more exist. Those on or adjacent to logging areas would be at risk.

Wildlife, vegetative, and soil quality values:

Long term negative consequences to several game species and furbearers including moose, mountain goat, bear, and land otters, would occur due to loss of habitat or presence of humans. The proposed logging camps may attract nuisance bears, necessitating their elimination.

Disturbance of seals and threatened Steller sea lions on haul-outs and pupping areas by low-flying helicopters transporting logs may occur, especially in China Poot and Peterson Bays. These marine mammals have already experienced recent drastic population declines in the Gulf of Alaska, and even in Kachemak Bay.

A possible loss of 9000 birds per year to logged areas has been predicted by an ornithologist, with particular negative impact to bald eagles and murrelets, both species that experienced losses in Kachemak Bay due to the Exxon Valdez oil spill. Murrelets are experiencing population declines in the southern portion of their range due to the exploitation of Pacific northwest old growth forests where they nest.

Topsoil in logged areas would be lost because of erosion and strong winds, causing flooding, siltation, sedimentation, loss of soil productivity. This may be especially critical in the Wosnesenski River valley, scheduled for extensive logging.

Areas of botanical interest may experience negative impact.

FOUR QUESTIONS ADDRESSED BY THIS STUDY:

Question 1. *Will moose benefit from a clearcut?*

Answer: No. There are few moose in the park area currently. Since Timber Trading Company plans to utilize clearcut harvesting, a method that would not be beneficial to moose and other wildlife species, much depends on how much and what kind of brush regrows after the cut. Because of past regrowth patterns, it is unlikely that much high quality moose browse will be established. Instead, the same species of brush that existed before a cut is most likely to regrow, with possible expansion of alder and/or grass cover. Additionally, moose would lose cover provided by the forest and would therefore have to negotiate greater snow depths in the winter, especially on the many north-facing slopes.

To quote a memorandum by Lance Trasky, Regional Supervisor, Habitat Division of Alaska Department of Fish and Game Re: Timber Harvesting Impacts on Moose Habitat - Kachemak Bay, dated November 19, 1990, "Increased browse production from the removal of the coniferous overstory by logging could lead to a short-term increase in local moose numbers, but we believe that the limiting factors discussed above will likely minimize that increase over the long term. Any increase in moose numbers after logging will depend on the quantity and quality of available understory browse plants. We believe that the low availability of palatable high quality browse during winter will continue to limit moose population growth over the long term."

Question 2. *Do spruce bark beetles infest Kachemak Bay State Park ?*

Answer: Spruce bark beetles prefer other species of spruce over Sitka spruce, and a warmer dryer climate found in the central Kenai Peninsula, rather than a cooler moist one found in Kachemak Bay State Park. The beetles also prefer uniform stands of old trees to broken stocks of mixed age trees. The following table demonstrates the conditions that affect success of spruce bark beetle populations.

<u>TYPE OF SPRUCE</u>	<u>CLIMATE</u>	<u>STOCKING OF TREES</u>	<u>CONDITIONS FOR BEETLES</u>
White	warmer, dryer	mature, uninterrupted	more favorable
Lutz	to	to	to
Sitka	cooler, moister	mixed age, broken stands	less favorable

In each case, the conditions on the south side of Kachemak Bay do not favor spruce bark beetle expansion unless there is a major disruption such as logging with subsequent blowdowns left on the ground, or significant climatic change. Spruce bark beetle populations there are being monitored by the Forest Service as well as state agencies.

To quote a memorandum by Roger Burnside of the Resource Management Section of the DNR, Re: Spruce Bark Beetle (Dendroctonus rufipennis Kirby) Occurrence on Seldovia Native Association (SNA) Land/Timber Trading Co. (TTC) Timber in Kachemak Bay State Park (KBSP), dated December 19, 1990, "Potential for increased spruce bark beetle activity on SNA land within the Kachemak Bay State Park (and subsequent threat of a major infestation developing) appears to be low at this time."

"Based on past detection surveys, spruce bark beetle impact on southside Kachemak Bay within Kachemak Bay State Park historically is low. Low spruce bark beetle impact is predicted, for the next 2-3 years, based on past survey data for this area. Major site disturbance such as unseasonable climatic trends could alter this prediction. Ongoing sampling will document beetle activity in live timber."

Question 3. *What is SNA's attitude regarding the sale of their land?*

Answer: SNA has continued to attempt to trade or sell their land for the last 16 years since they were denied their initial request for lands in Jakolof Bay and accepted land selections within Kachemak Bay State Park instead. SNA has stated that it is a land company but is willing to sell this land to the state to finalize this long process. Purchase of their inholdings would allow the SNA the opportunity to implement some long range plans and projects. These would include the retirement of debt on their fish plant, and the construction of a new office building to enable meetings to be held there.

Question 4. *Is the buy-back only a Homer issue?*

Answer: No. Kachemak Bay State Park is visited by people from the south 49 states, foreign countries, as well as Alaskans. The goods and services provided by 74 area tourist-related businesses that were surveyed primarily serve visitors. Only 8% of the clients were from Homer. Some of the owners or operators of these businesses live in other parts of the state. For example, the University of Alaska, Fairbanks uses two facilities on the south side of Kachemak Bay; one for Marine Science studies, and another for in-field teacher training.

Just 18% of south side property owners are from Homer; 46% are from Anchorage. Only one third of the people on the waiting list for moorage in Homer Small Boat Harbor are Homer residents; an equal number are from Anchorage, Fairbanks, and MatSu valley combined. Petitions supporting the park buy-back have been signed by Alaskans from 57 towns, with an approximately equal number from Homer and Anchorage. Residents from 45 states and 11 countries also signed these petitions.

Logging within Kachemak Bay State Park would establish a precedent of logging within state parks, which might then continue in other state parks.

SHORT TERM GAINS AND LONG TERM LOSSES:

In summary, the Kachemak Bay area including Homer and other nearby communities is gifted with many unique intrinsic and economic values; an intact wilderness ecosystem, a State Critical Habitat Area, an archaeologically rich heritage, two outstanding state parks, beautiful scenery, and a healthy intact economy whose main pillars are fishing and tourism.

Its economies are interwoven with other areas of Alaska, particularly the Kenai Peninsula and Anchorage. If well managed, the Homer and Kachemak Bay area will continue to have very productive fisheries and be an important tourist destination as the gateway to outstanding roadless recreation areas. It is an area of much vested and esthetic interest from all over southcentral Alaska, from rest of the Alaska, and from the south 49 states and foreign countries.

This study documents that logging is not especially welcome in the Kachemak Bay area. It is seen as a threat to the co-existing economies of fishing and tourism as well as to the intrinsic and recreational values of the park and surroundings. The fifty or so jobs that logging may provide in the short term (nine years remain in the timber harvest contract) may well cause a long term loss of many more jobs, and damage the wilderness ecosystem.

The buy-back of oil leases in Kachemak Bay as previously done by the state proved to be a very significant positive occurrence in the development of the area. The buy-back of these land and timber inholdings promises to promote the continued well-being of the area's existing industries and scenic and recreation values. It is hoped that consideration of these many values at risk will be given prior to a decision regarding the fate of the Seldovia Native Association and Timber Trading Company inholdings within and adjacent to Kachemak Bay State Park.

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SELDOVIA NATIVE ASSOCIATION, INC.
LANDS WITHIN KACHEMAK BAY STATE PARK

Seldovia Native Association, Inc. (SNA) is a Village Native Corporation, with a land entitlement of 69,120 acres in the Seldovia area.

When SNA made its land selections near Seldovia in the Jakalof Bay area, the State of Alaska filed objections to SNA's selections, with the Federal Government.

Because of the State's protest, and the uncertainty of SNA's financial ability to defend itself as a new Native Corporation with no funds, SNA selected land within the Kachemak Bay State Park to ensure its full land entitlement.

In 1975, when SNA selections within the Kachemak Bay State Park were determined to be proper and valid, SNA and the State started discussing a land trade. SNA was willing to trade its inholdings for State land elsewhere with commercial or income-producing potential, and the State wished to preserve the park.

Many attempts were made to finalize the trade through the years from 1975 to present. Two small trades of about 5000 acres were made in March 1983 and May 1985, but several years went by with no productive results of the trade.

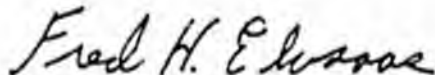
In 1987, SNA decided the trade was not workable, and sold timber on the land to Koncor-Timber Trading Co. This timber sale renewed the State's desire to acquire and preserve the park land once again. SNA and Timber Trading Co. agreed to try a land and timber trade with the State once more.

After a year of very diligent efforts by everyone, it was agreed that a equal value trade of land for land and timber for timber was not workable.

The State then proposed a cash buyout of SNA and Timber Trading Co. in the Park. SNA's appraisal by Mundy & Associates values the land at \$22,272,050.00. The States offer to SNA at \$15,490,000 is \$6,782,050 less than the SNA appraisal.

As a Native Corporation concerned about the future and lifestyle of its shareholders, who are restricted from selling their stock and thus "locked in" to SNA, the Directors, after great misgivings, agreed to accept the State's offer early in 1990.

Now, after sixteen long years, we can finally resolve this trade, if our legislators and Governor approve of the State's offer.



Fred H. Elvsaaas, President
Seldovia Native Association, Inc.

December 5, 1990

The Seldovia Native Association, Inc.
1972 to 1991

The Native people of Seldovia formed the Seldovia Native Association, Inc. (SNA) in 1972 after passage of the 1971 Alaska Native Claims Settlement Act, Public Law 92-203.

The original membership enrollment was 257 Natives, each received 100 shares of voting stock totalling 25,700 shares issued.

The stock issued to the original shareholders is restricted to each shareholder or their heirs. The stock cannot be sold or used as collateral. It can be gifted to relatives in a decending order.

Seldovia is on the Southern Kenai Peninsula on Kachemak Bay. The Kachemak Bay area has been a historic Native Trading, Visiting and Warring place, for centuries.

The Athabaskan- Kenaitze Tribes are to the North, The Koniag-Aleuts are to the South, the Chugach-Eskimos are to the East and the Iliamna-Nondaltons are west of Seldovia. Thus, Seldovia is a place with people that have a variety of cultural histories. We are Indians, Aleuts and Eskimos.

SNA's ANCSA section 11 Land Entitlement is 115,200. acres. Of this entitlement 69120 acres can be from land selected by or tentatively approved to the State of Alaska. Most of the land around Seldovia and Kachemak Bay had been selected by the State.

The SNA has nine directors which are elected by the shareholders. Three directors are elected to serve three year terms each year. This gives SNA continuity in it's policy making and leadership.

Each year after the SNA annual meeting the directors elect a Chairman, a President, a Vice President and a Secretary: All officers serve one year terms.

A.N.C.S.A. when it was passed Dec. 18, 1971 was a settlement by and for the Federal Government. It was not a settlement by the individual natives. The congress drafted and voted for A.N.C.S.A, the natives were not given any opportunity to vote.

The Congress and Federal Government recognized The Alaska Natives had aboriginal Title to Alaska, thus Congress made the settlement.

When SNA was formed the corporation had several tasks, before it, none of which any of the directors had any experience in.

SNA had to identify and select its land entitlement, generate revenues for operations and dividends, plan a course for the future as well as address current and on going shareholder needs such as housing, employment, education etc.

SNA recognized A.N.C.S.A. had taken the Alaska Natives Land from aboriginal ownership and made it available to corporations which were formed after the act was passed.

With this in mind, SNA developed the Barabara Heights subdivision near Seldovia for shareholders. The subdivision was surveyed with road right of ways, utility easements and green belts. The lots are 3 acres each, allowing for on site water and septic systems.

On June 2 1979, after clearing up problems over SNA's title to the land a lottery was held for the shareholders. The deeds are fee simple with SNA reserving a first right of refusal on any sales. Many shareholders did not have land of their own before this.

Since 1979 many homes have been built, some are private constructed, some are SNA assisted homes. As of 1990, 170 people live in the subdivision, and it is growing.

SNA brought in and worked with the Cook Inlet Housing Authority and the Public Health Service to build 16 homes in the subdivision and several water and septic systems.

Locally the Bureau of Indian Affairs Housing-Improvement Program is managed by SNA. Several shareholders homes have been upgraded and improved. One new home is being completed with another one planned for 1991.

SNA uses it's wholly owned subsidiary 'S.N.A. Contractors' on these projects

SNA bought 2 lots and a building in Seldovia for its offices and meetings. 5 lots were purchased on which a sea food processing plant was built to provide a market for fisherman as well as local employment.

SNA worked with the Cook Inlet Housing Authority to build Lakeside Terrace, an 18 unit building for subsidized Elderly housing. At lakeside Terrace a senior citizen hot lunch program is run by SNA.

Recognizing the need to generate revenue SNA sold timber in the Seldovia Valley. A consulting firm was hired to design the cutting areas and make a road plan maximizing as much road construction as possible by the Logging Co.

Three small sales were held. This gave SNA several miles of road with access to more timber as well as a tide water loading yard and site.

SNA planted over 100,000 seedling tree in areas previously logged on SNA and Port Graham Corporation land. This not only restocked Native timber land and provided employment, it also was a great expression of SNA's concern for the land and it's future.

Cones were gathered locally for the new tree seed stock by shareholders.

The Corporation allows hiking, camping, berry picking, sight seeing etc. on it's land. Several trails are also in use. The beach areas at Peterson Bay is very popular with educational groups and tours from Homer and others areas.

SNA and the Regional Corporation Cook Inlet Region Inc. have a sub surface (sand, gravel, rock) management agreement in effect. SNA have sold rock for projects such as Homer Boat Harbor, Anchor River flood plain, Port Graham roads, oil and gas well blow outs, local needs and even as far away as the Kuskokwim River at Bethel.

Land is provided for the Kenai Peninsula Borough Sanitary Land fill. A septic sludge disposal site has been engineered with construction planned for 1991.

The local TV translator is on SNA land. Land leasing for home and recreational sites is one of SNA's on going programs. People can either lease within parcels or subdivisions SNA has or they may subdivide a parcel themselves. SNA offers both water front and upland leases. The leases are 55 year terms, can be renewed. Some very nice homes have been built on leased parcels.

SNA provides a scholarship for graduates of the Seldovia School. Although it is only \$400.00 at present, it represents the Corporations recognition of the importance of higher education in rural Alaska.

SNA strives to be a good corporate citizen and neighbor. A fund for donations to local fund raisers is set up. Notary service, copying, faxing, chamber of commerce work are some of our public service. SNA and it's staff provides the annual christmas stockings with fruit and candy for the school and pre school kids.

Two small museum display cases are available for tourist and visitor viewing.

Although SNA was officially incorporated by the Seldovia Natives to participate in the Alaska Native claims settlement act it also served for many years as the Tribal authority.

In 1990 the Seldovia Village Tribe Inc. was formalized to address tribal concerns and programs. The tribe is managing the Indian Health Service contracts for Natives in the Homer, Seldovia area. These contracts include 3 dentists, 3 medical clinics, The South Peninsula Hospital and 2 pharmacies. The goal is more quality health care for Natives, managed on the local level. Natives helping Natives.

The community Health representative and EMS director positions started at SNA, both are now handled by the Seldovia Village Tribe.

SNA is a member of the Community Enterprise Development Corp. (CEDC) a statewide Native organization that assists native people and companies in business ventures. CEDC has helped SNA review several business proposals such as fuel stations, marine storage and mariculture.

With Seldovia Native Association taking care of the business such as, ANCSA, land trades and profit ventures and the Seldovia Village Tribe handling health, social and other non profit type programs the Seldovia Natives now have the opportunity to decide and develop the future for themselves in a more positive means than ever before.

KACHEMAK BAY STATE PARK CITIZEN'S ADVISORY BOARD
David Stutzer, Chairman
Box 2296
Homer, AK 99603

POSITION PAPER
KACHEMAK BAY STATE PARK CITIZEN'S ADVISORY BOARD

Support for the State buy-out of Seldovia Native Association inholdings within the boundaries of Kachemak Bay State Park and the purchase of Timber Trading Company's logging rights.

Preamble

There are few, if any, parks in the world that can boast of the many attributes and qualities of Alaska's Kachemak Bay State Park and State Wilderness Park. No other park possesses such rugged and beautiful shoreline, not just on one body of saltwater, but on two. Straddling the rugged spine of the southern Kenai Mountains from the rich waters of Kachemak Bay to the turbulent seas of the Gulf of Alaska, these park lands contain numerous fjords, bays, glaciers, rivers, streams and high mountain lakes. The old growth coastal rain forest is home to bear, lynx, moose, coyote, eagle and wolf, while the high mountain ridges provide safe habitat for a healthy population of mountain goat. The waters of Kachemak Bay are some of the richest in the world in marine life and habitat.

All of these attributes provide for a range of recreational pursuits unmatched in any other park. On any given day during the summer months, people can be found fishing for salmon, halibut and trout; ocean kayaking, river rafting and power boating; camping, rock climbing, hiking and exploring; snow skiing and scenic flightseeing; photographing wildlife and doing scientific research; beach-combing, clamming, crabbing, scuba diving and even water skiing! People hunt for bear, moose and mountain goat during the hunting seasons. Well over twenty thousand visitors enjoy some aspect of the aforementioned activities each year in the park. Additionally, Homer's residents and untold thousands of visitors enjoy the aesthetics of the tremendous scenic view Kachemak Bay State Park affords them just across the bay.

It is the very heart of this great park, on lands which SNA selected around China Poot Bay, that is now threatened by clear cutting. The position of the Kachemak Bay State Park Citizen's Advisory Board is obvious; no one wishes to see the center piece of the park degraded aesthetically and environmentally by logging. The board wants the park to be made whole again.

Background

In 1981, at the direction of State Parks Director Chip Dennerlein, a group of citizens from the Kachemak Bay area were brought together to form the Kachemak Bay State Park Citizen's Advisory Board. The mission of this board is to advise park administration of citizen's concerns and wishes in regards to the management of this unique resource and to serve the interests of the public in advocating Kachemak Bay State Park.

The single most important agenda item of the Board during the last ten years has been the re-acquisition of the Seldovia Native Association lands within the legislative boundaries of the Park. It has long been felt by the Board that this acreage represents the 'heart' of the park and its acquisition will ensure that this statutorily created scenic park will remain intact for future generations.

Each year, through various letters, resolutions and legislative contacts, the Board has expressed its unity and determination in supporting and campaigning for a land trade. The Board now supports the purchase of this property and the timber rights since it appears a land trade is no longer feasible. The Board now takes its strongest position that the purchase of the timber rights and SNA lands will provide for the best long term use of this land, both environmentally and economically, for the people of Alaska.

Following is a discussion of the possible consequences of non-acquisition of the SNA lands and timber rights versus the acquisition of same.

NON-ACQUISITION OF LAND, TIMBER HARVESTED:

1. Potential negative economic impacts:
 - Could severely and negatively impact the growing tourism industry in Kachemak Bay communities including:
 - a. Scenic over-flights (air taxis)
 - b. Scenic and educational tours (boats, ferries)
 - c. Fishing charters and water taxi services to, in and around China Poot Bay, Peterson Bay and the remaining park areas.
 - d. Hotels, motels, private campgrounds and lodges on both sides of the bay.
 - e. Support industries directly and indirectly related to the above.

2. Clear cutting potentially increases the likelihood for the spread of spruce bark beetle in the Kachemak Bay area.

- Several areas of infestation exist throughout Kachemak Bay, including TTC's planned clear cut areas. Following is a quote from an ADNR, Division of Forestry report prepared by Roger Burnside for the Director of the Division, Malcolm R. Dick, dated 12/28/90. "Absent logging, it is unlikely significant spruce beetle populations will occur on SNA/TTC land during the next 2-5 years. Localized infestations (1-20 trees) will likely occur." The key word here is absent.

- The report does not speculate on what the likelihood of spread would be. Yet, in an earlier statement, it suggests that field evaluations are not warranted unless beetle outbreak indicators are present and properly documented. Indicators are defined as, among others, a major site disturbance (e.g. windstorm, right-of-way, clearing). The Board can only conclude that a clear cut would be a major site disturbance.

3. The view from Homer would be negatively impacted.

- A clear cut scar within the scenic viewshed would severely diminish the aesthetics from Homer. Many visitors to Homer are attracted to the other side of the bay because of the scenery, without ever having previous knowledge of the Park's existence. This is a direct correlation to #1 above.

4. User groups and use patterns may change.

- Existing recreational use of the Park as well as the China Poot Bay area may be altered. Recreationists who use SNA lands now may not do so once logging commences or after the area has been clear cut. The potential exists for these user groups to relocate, putting increased pressure on other park areas.

- Logging roads and/or clear cut areas may attract new user groups. Snowmachines and ATVs which are not regulated on private land may find easier access to the neighboring park lands. These impacts will cause pressure on park management to monitor and control this use along boundaries. Additionally, user group conflicts may arise between those wishing a more traditional park experience and groups utilizing private lands via motorized vehicles.

- Development of SNA land for remote or recreational cabin sites and road systems may compound these conflicts even further. This is not to say that people cannot cooperate and get along, but in the long run, the increased population in this area would definitely lead to expanded pressures on park resources and possible conflicts among user groups.
5. Indigenous species of this old growth forest ecosystem would be displaced by clear cut logging.
 - The present balance in local wildlife dynamics would be disrupted with the loss of habitat due to logging.

ACQUISITION OF TIMBER RIGHTS AND SNA LAND THROUGH PURCHASE:

1. The scenic viewshed would remain intact. The park was created and defined as a "scenic park" with the 'heart' of the park's viewshed around China Poot Bay left in its natural state.
2. Park use could increase as a result of providing a larger area to use with more dispersed facilities which could include trailheads, trails, campsites and moorages. These additions would enhance the recreational use and enjoyment of this area in the park.
3. The China Poot Bay estuary and ecosystem, the richest in Kachemak Bay, would be protected from any negative impacts resulting from logging activities.
4. The long term economic benefits that a healthy tourism economy brings to the Kachemak Bay communities far outweigh the short term and limited economic benefit provided by logging.

Summary

According to former State Senator Clem Tillion, a member of the Kachemak Bay State Park Citizen's Advisory Board, advisor to Governor Hickel and oftentimes referred to as the "father" of Kachemak Bay State Park; the park was originally created to protect this area from logging. It would be ironic indeed if the State of Alaska allowed the foresight of twenty years ago to be lost with this one last chance to return to the park its centerpiece.

The Board feels that the best use of this land is as originally intended, as a State Park. Over the long term, the citizens of Kachemak Bay would benefit much more both economically and socially by the acquisition of the SNA lands and the TTC timber rights. The ultimate goal in business, politics and management is a negotiated WIN/WIN finish. This purchase is a solution where there are no losers.

Prepared and approved on February 6, 1991 by the Kachemak Bay State Park Citizen's Advisory Board.

David Stutzer, Chairman
Dan Del Missier, Vice Chairman
Ed Bailey
Kohar Bertan
Hugh Bevan
Ralph Broshes

Phil Brudie
Dave Doscher
Kurt Marquardt
Clem Tillion
Joni Whitmore

Timber Trading Company

FOR IMMEDIATE RELEASE
JANUARY 22, 1991

TIMBER TRADING COMPANY SUBMITS PERMIT APPLICATIONS FOR KACHEMAK BAY TIMBER HARVEST

Timber Trading Company announced today all necessary permit applications for timber harvesting in the area South of Kachemak Bay have been submitted to the State of Alaska Division of Governmental Coordination.

The permit applications pertain to the harvest of timber acquired from Seldovia Native Association in 1987.

"We are moving forward with our timber harvesting plans in the Kachemak Bay area," says Timber Trading Company President John Sturgeon. "While it is our position to recognize the State of Alaska buy-out proposal, we are prepared to commence timber harvesting in a sound environmental manner upon permit approval".

Cutting plans have not yet been submitted to Seldovia Native Association, but plans will be finalized once permits are received.

Additional permit application information can be obtained from the Division of Governmental Coordination at (907) 561-6131.

Main Office: 3501 Denali, Suite 202
Anchorage, Alaska 99503
(907) 562-3335
FAX (907) 562-0599

Log Procurement Office: Professional Plaza
256 E. Hurlburt, Suite 110
Hermiston, Oregon 97838
(503) 567-4420
FAX (503) 567-4448

Timber Trading Company

December 6, 1990

STATEMENT OF POSITION

In 1987, Timber Trading Company (TTC) purchased timber harvesting rights for selected Seldovia Native Association (SNA) lands south of Kachemak Bay. At the time of the purchase, it was TTC's belief that the timber market although at its lowest point, was eventually going to improve. In addition to the Seldovia purchase, substantial timber was acquired elsewhere in the state. TTC correctly anticipated a market upturn to occur over the next few years that would allow the company to realize a profit for its native shareholders.

Presently, timber markets are such that it is an opportune time to commence timber harvesting and TTC is in the process of securing the necessary permits.

Concurrently, SNA has been approached by the State of Alaska with a land buy-out proposal. The buy-out proposal follows 15 years of unsuccessful attempts to trade land for land. Originally, the State had proposed a 'trees for trees' trade with TTC, but they could provide no trees for a trade, so subsequently, a cash buy-out was proposed by the State. TTC considers itself a responsible land manager. As such, the reasons TTC has agreed to a trade are numerous and include recognizing the legitimate concerns of the tourism and recreation interests in the Kachemak Bay State Park area. In addition, TTC also wishes to assist its fellow native community (SNA) in finalizing its 15 year-long land management strategies. A cash buy-out is a lower risk business venture as opposed to investing capital in a logging operation and playing the timber market.

TTC shareholders are due a return on the investment that the State approved appraised timber value of \$6.4 million represents. TTC's Board of Directors has opted to accept the lesser figure of \$4.51 million in an effort to assist SNA and to recognize area tourism and recreation interests. As a private, tax-paying, native-owned corporation, TTC has a responsibility to generate a profit for its shareholders.

TTC shareholders will receive a return on their investment through either a State buy-out or harvesting the timber. Accepting the proposed \$4.51 million buy-out offers a positive solution for all involved. But, if the buy-out fails to materialize or if the \$4.51 million figure waivers by the end of the 1991 Legislative session, TTC is prepared to move forward with timber harvesting in a sound environmental manner.

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Timber Trading Company

In 1974, Seldovia Native Association was forced to select 29,405 acres of land within the boundaries of Kachemak Bay State Park after their attempts to select lands in the Jackalof Bay area were protested by the State. These lands were selected as a result of the Alaska Native Claims Settlement Act.

For the next 13 years, Seldovia Native Association was put in the position of having to manage these lands in some way for the benefit of its shareholders. Various land trades between SNA and the State were attempted throughout the years without success.

In 1987, Senator Paul Fischer introduced a bill to purchase SNA's park inholdings. The bill failed. Due to the lack of interest by the State in purchasing SNA's inholdings and the inability to trade land for land within the State, SNA moved forward with plans to utilize their property to produce corporate benefits for their shareholders.

Timber harvesting rights were sold by SNA in 1987 to Timber Trading Company (TTC) as the first step in its long-term land management plan implementation.

After the timber sale, the State again approached SNA and now TTC, to attempt a land for land, trees for trees trade. The State failed to commit a reasonable exchange package.

Due to the trade failure, the State proposed a cash buy-out of both land and timber rights. Independent appraisals were made by each party (SNA, TTC and the State) of their related land/resource values. The figures, as might be expected, were divergent.

In February 1990, the State hired a three appraisal panel to review all previous land appraisals. The panel concluded the value of SNA lands without timber ranged from \$11.6 million to \$15.49 million. SNA, as a large private corporate landowner with financial responsibilities to its shareholders, could not consider a buy-out for less than \$15.49 million given its appraisal estimate of \$22.7 million. The State and SNA agreed to the \$15.49 million cash buy-out figure in late February 1990.

In March 1990, TTC and the State entered into arbitration to determine the value of TTC's timber rights. The arbitrators reached the value of \$6.4 million. In an effort to assist its fellow native corporation, SNA, in resolving its fifteen year-long dilemma of ownership TTC agreed to sell its timber rights for less than the appraised value. Additional rationale that allowed TTC to accept a lesser value was the elimination of any market risk while still maintaining the ability to generate a profit that would be acceptable to its shareholders. In late March 1990, TTC and the State agreed to a \$4.51 million cash buy-out value.

This is the last effort on the part of the private native corporations involved to forego development opportunities. If the full \$20 million funding of the buy-out is not obtained during the 1991 Legislative session, SNA and TTC will be left to pursue their corporate obligation of providing their shareholders with the economic benefits they are due.

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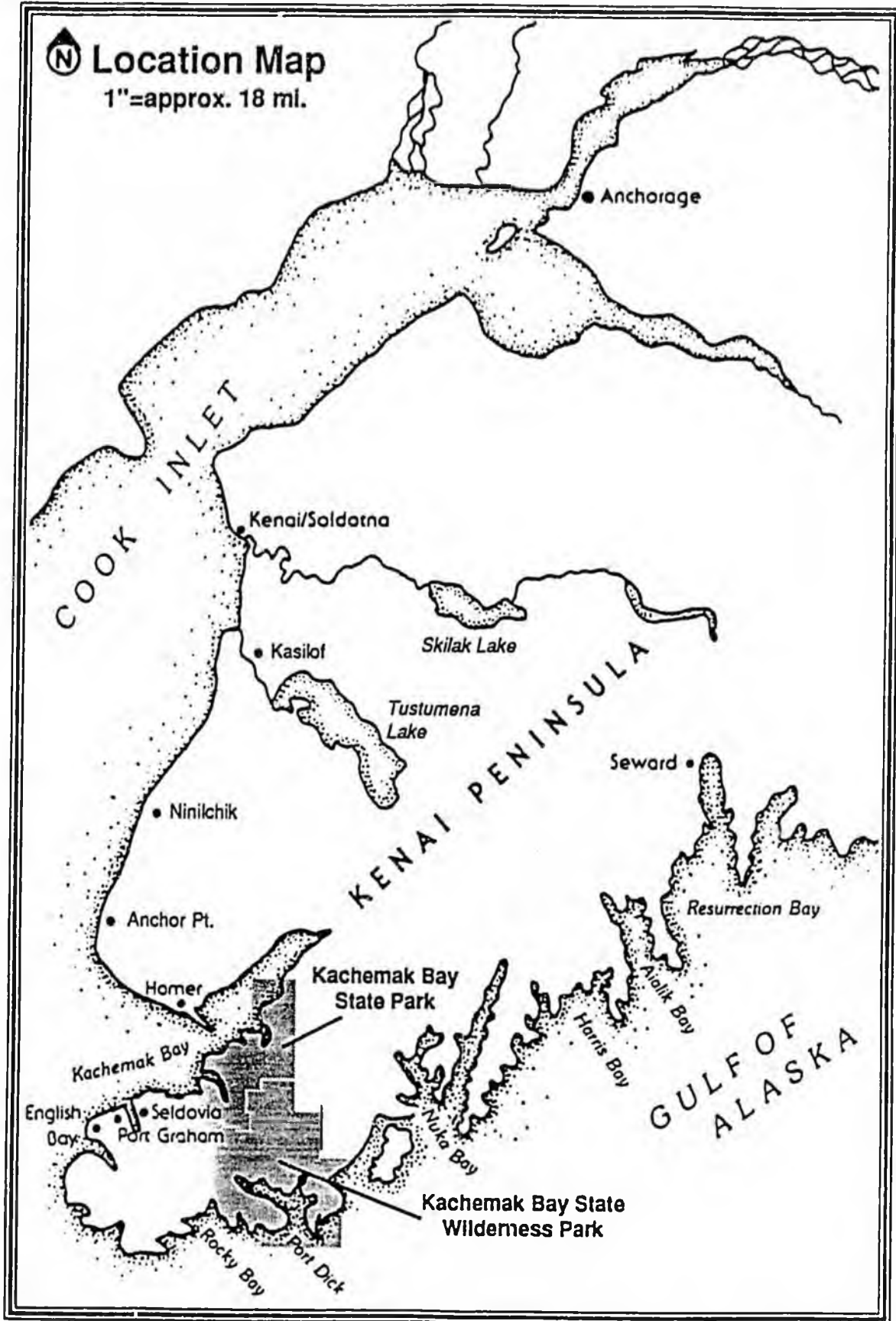
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House Bill 83:

**Purchase of Land and
Timber Inholdings
within
Kachemak Bay State
Park**

N Location Map

1"=approx. 18 mi.



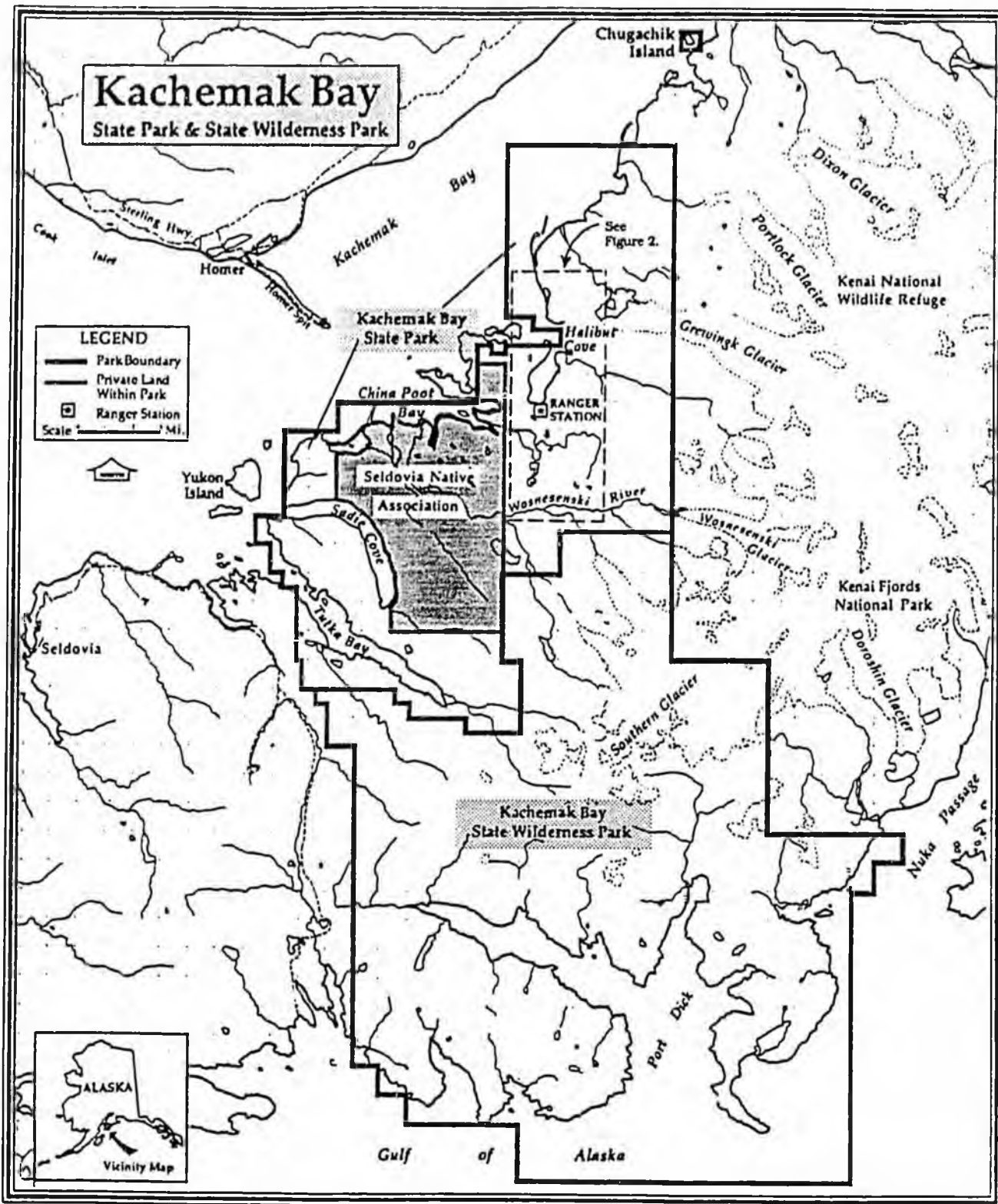


Figure 1.

House Bill 83

Kachemak Bay State Park

Land and Timber Inholding Acquisition

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 three 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 legislative 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 of 1990, an arbitration panel of 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 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 \$15.5 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. At that point, the timber values were still in question. Through subsequent arbitration, the marketable timber values were set at \$6.4 million, and through negotiations a cash purchase value of \$ 4.5 million was determined. The end result produced a final cash value for both land and timber at \$20 million.

During the last legislative session, House Bill 590 (and a Senate companion bill, Senate Bill 536) was introduced by former Governor Cowper on March 28, 1990. The House Resources substitute provided \$20 million for the outright purchase of both land and timber inholdings within Kachemak Bay State Park. Unfortunately, HB 590 failed on the House floor by a 20-20 vote.

On January 30, 1991, Representative Mike Navarre introduced House Bill 83, to accomplish the purchase of the land and timber inholdings. HB 83 is a duplicate of HB 590 from the previous session.

What the State will Gain:

Seldovia Native Association's 23,785 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

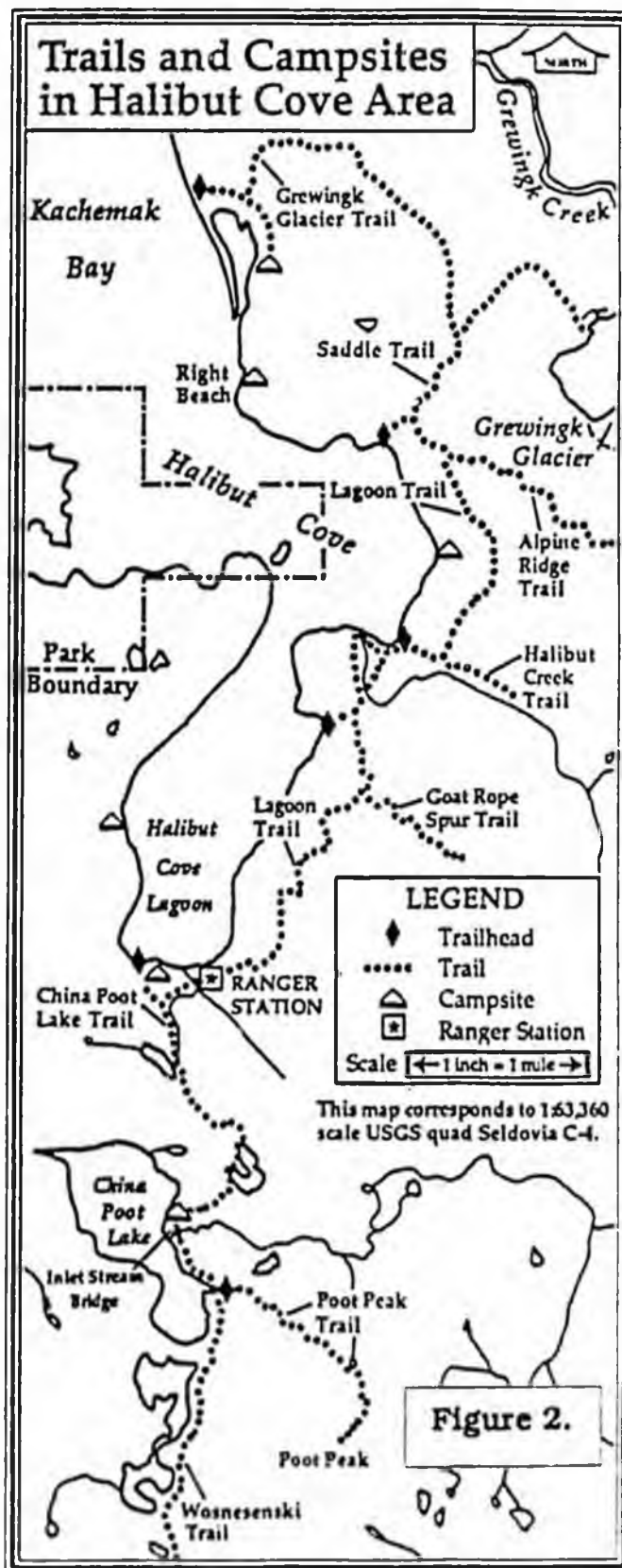
A large portion of SNA's park inholdings are highly visible from Homer and the Homer Spit, with China Poot Bay being the centerpiece for this breathtaking tableau. A photograph of China Poot, taken from the Homer side, was used by the Nation Geographic Society in its 1990 calendar, "Seashores of the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





Sitka State Parks Citizens Advisory Board, Box 142, Sitka, AK. 99835

Feb. 14, 1991

Alaska State Legislature
Chairman, House Resources Committee
P.O. Box V
Juneau, Alaska 99811

RECEIVED FEB 15 1991

Dear Sir:

The Sitka State Parks Citizens Advisory Board at their meeting Feb. 12, 1991 expressed their concern over the proposed logging of over 24,000 acres within the boundaries of Kachemak Bay State Park.

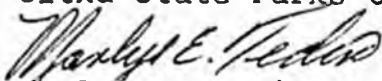
The Board believes that to allow any logging within the boundaries of a State Park negates all that a State Park symbolizes to most citizens of Alaska, therefore we strongly support House Bill #83, a special appropriation to the Division of Natural Resources for the purchase of the inholdings of the Seldovia Native Association and the timber rights of the Timber Trading Company within Kachemak Bay State Park.

The Board also recommends that these inholdings be added to the Kachemak Bay State Park acreage.

The Board appreciates the opportunity to present its position on this matter.

Sincerely,

Sitka State Parks Citizens Advisory Board



Marlys E. Tedin, Chair.

HB

94

TANANA BASIN AREA PLAN



1990 UPDATE

Briefing Paper

December 7, 1990

Issue

Adoption of the Tanana Basin Area Plan 1990 Update

Background

The process has been:

- | | |
|---------------------|-------------------------------------|
| * Spring 1989 | Issues identified |
| * Summer, Fall 1989 | Collect data |
| * Winter 1989-90 | Propose plan revisions |
| * Spring 1990 | Conduct public review |
| * Summer 1990 | Review comments; prepare final plan |
| * Fall 1990 | Conduct final review |
| * November 30, 1990 | Plan update adopted |

Comments received October 20, 1990 - November 26, 1990

Few comments were received on most of the major issues addressed in the plan update. The management of the Goodpaster River area remains the most controversial issue, and it generated considerable public comment.

Goodpaster River comments

Supporting the revised proposal described in the 30-day final notice were






- Goodpaster River Property Holders Association
- Salcha River Property Owners Association
- Alaska Center for the Environment
- Susitna Valley Association
- three individuals
- a petition with 1426 signatures
- a form letter with 219 copies

Supporters say this proposal would protect the entire watershed ecosystem; manage for all forest values, not just logging; reduce conflicts between logging and existing traditional uses; and better balance habitat and recreation values with existing agriculture and forestry development in the Delta region.

Opposing the revised proposal described in the 30-day final notice were

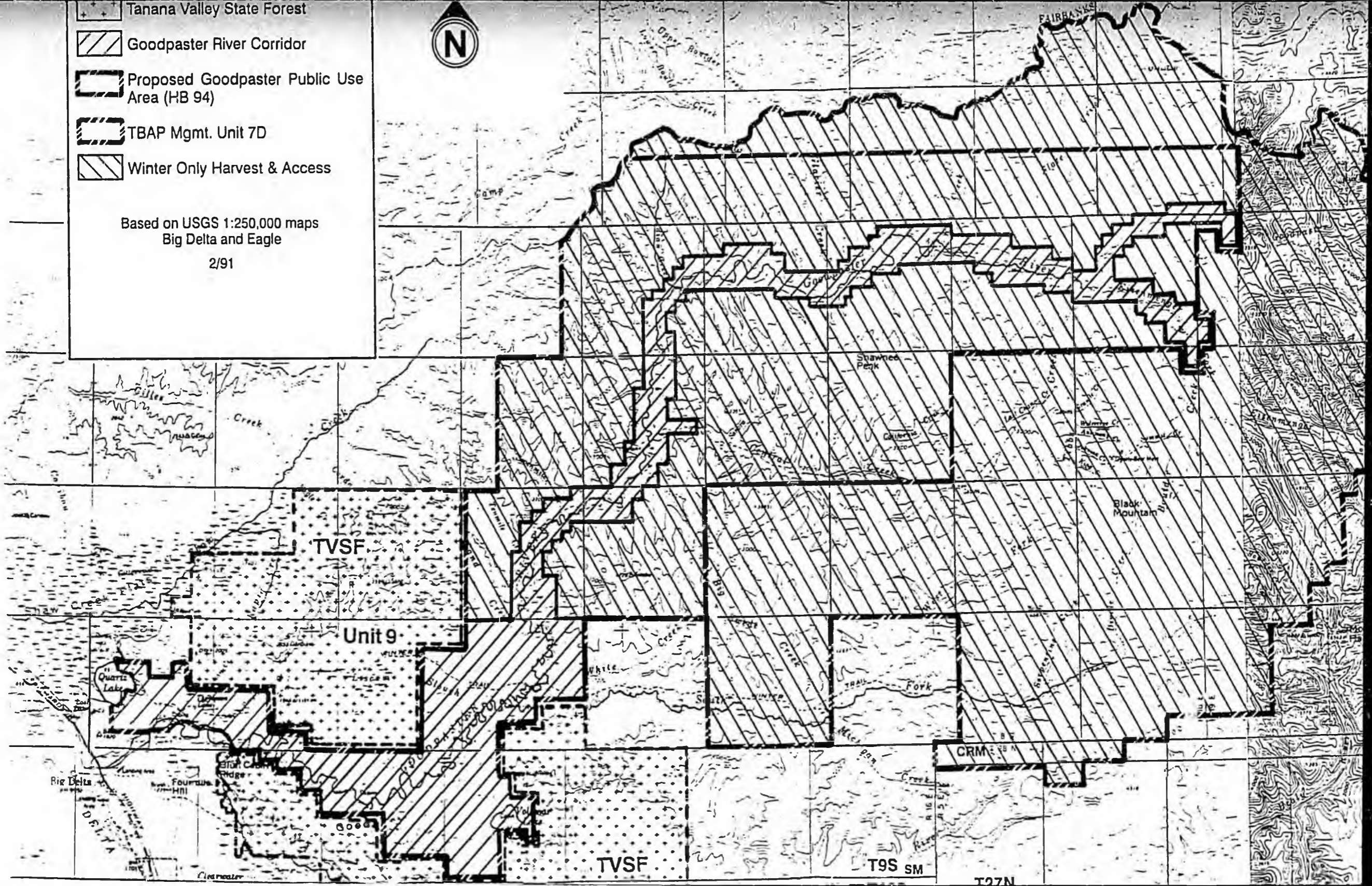
- Deltana Community Corporation
- City of Delta Junction

(continued)

-  Tanana Valley State Forest
-  Goodpaster River Corridor
-  Proposed Goodpaster Public Use Area (HB 94)
-  TBAP Mgmt. Unit 7D
-  Winter Only Harvest & Access



Based on USGS 1:250,000 maps
Big Delta and Eagle
2/91



CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

TANANA BASIN AREA PLAN



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Opposing the revised proposal described in the 30-day final notice were

- Deltana Community Corporation
- City of Delta Junction

(continued)

- Tok Chamber of Commerce
- Tanana Valley State Forest Citizen Advisory Committee
- three individuals
- a petition with 950 signatures
- two requests for additional public hearings
- resubmittal of an earlier petition of 227 signatures

Opponents of the proposal say that access is needed for other owners and resource uses; all season access is needed; more employment is needed; and the proposal wastes fire suppression investment, undermines the planning process and advisory committee work, and causes further friction without adequate review.


Final changes proposed by Planning Team

Except for the Goodpaster issue, the planning team agreed to a few final changes to the area plan update, and recommends its approval.

For the Goodpaster issue, the team agreed on three points:

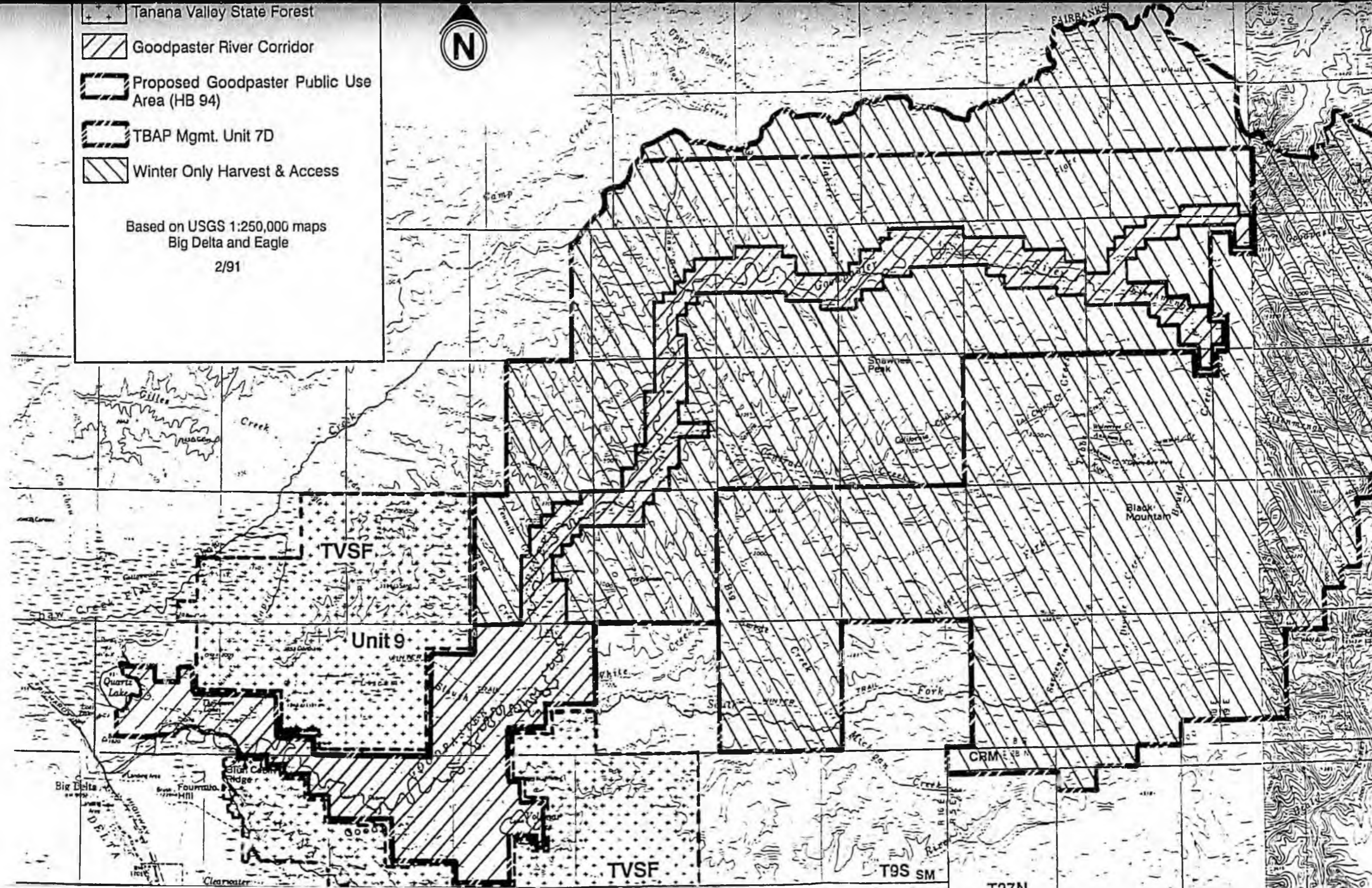
- * the team recognized the commissioner's deadline for signing the plan, but said they need additional time to review the large volume of public comments received during the final period;
- * the public comments were strongly divided;
- * additional time is required for a more comprehensive public review of the final proposals (for example, City of Delta, Tok residents, and the Deltana Community Corporation requested additional public hearings).

The team did not reach a consensus on appropriate management and guidelines for the area. The departments of Fish & Game and Environmental Conservation were the only team members to officially oppose the revised proposal described in the 30-day final notice. However, the planning team as a whole did not recommend the Goodpaster issue for adoption at this time. The majority of team members expressed more support for the original planning team proposal as better reflecting the diversity of public opinion. They expressed concern about the process and the changes made by the commissioner late in the process. This did not allow enough time for adequate public involvement and planning team review.

-  Tanana Valley State Forest
-  Goodpaster River Corridor
-  Proposed Goodpaster Public Use Area (HB 94)
-  TBAP Mgmt. Unit 7D
-  Winter Only Harvest & Access



Based on USGS 1:250,000 maps
Big Delta and Eagle
2/91



STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

February 20, 1991

5 day rule.

The Honorable Cliff Davidson, Chair
House Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Davidson:

Subject: HB 94, which establishes the Goodpaster Public Use Area.

Position: We ask the Legislature to wait until the ongoing amendment process for the Tanana Basin Area Plan and the Tanana Valley State Forest Plan is completed before considering new legislative designations for this area. In addition, we ask the Legislature to consider placing an informal moratorium on the establishment of any new legislative designations until the mental health land trust problem is resolved and the state's land selection process is completed.

Background: This bill establishes a public ^{use area} recreation area in the Goodpaster River drainage, near Delta. Most of the same area is also considered for inclusion in the Tanana Valley State Forest under SB 49. The Department of Natural Resources recently reopened the Tanana Basin Area Plan and the Tanana Valley State Forest Plan to make them consistent in management intent for the Goodpaster area. The possibility of new legislative designations for this area will be considered during the planning process.

Recommendation: Defer action on this bill, at least until the planning process is completed.

Sincerely,

Harold C. Heinze

Harold C. Heinze
Commissioner

How long,
whose will remains.

cc: Committee members
Representative Boyer
Senator Shultz
Bruce Kendall, Legislative Liaison, Office of the Governor
Carl Rosier, Commissioner, Department of Fish and Game

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 94

Revision Date: Feb. 19, 1991 Department Affected: Natural Resources
 Title: Good Pasture Public Use Area BRU: Land & Water Management
 Components: Land & Water Management
 Sponsor: Representative Boyer
 Requestor: Home Resources COMPONENT SERIAL NO. 131

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						

Estimate of Current year impact: 0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Carol Wilson Phone: 465-2400
 Division: Commissioner's Office Date: 19-Feb-91
 Approved by Commissioner: Harold Heinze Date: 19-Feb-91
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

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- Tanana Valley State Forest Citizen Advisory Committee
- three individuals
- a petition with 950 signatures
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MEMORANDUM



Alaska Department of
**NATURAL
RESOURCES**

STATE OF ALASKA

TO: Gary Gustafson, Director
Division of Land & Water
Bob Dick, State Forester
Division of Forestry

DATE: January 3, 1991

FILE NO.:

TELEPHONE: 465-2400

FROM: Harold C. Heinze
Commissioner

HC

SUBJECT: Goodpaster River
Reconsideration

Pursuant to 11 AAC 02.030, I have reconsidered the adoption decision for the Tanana Basin Area Plan's Goodpaster River Management Unit 7D. Because of the diversity and amount of public comment received during the last review period, I am remanding this matter to you for further proceedings. Please return this matter to the planning team for reconsideration, including additional public review as needed.

cc: Anna Plager, Project Manager

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT

360 J STREET
P.O. Box 107005
ANCHORAGE, ALASKA 99510-7005
PHONE: (907) 762-2692

January 30, 1991

Mr. Edmond C. Packee
1977 Melanie Lane
Fairbanks, AK 99709

Dear Mr. Packee:

The commissioner has reviewed your request that he rescind the finding(s) of the former commissioner that the Tanana Basin Area Plan meets the requirements of AS 38.04.065 and 11 AAC 55.010.030. You also ask that he appoint a new project manager and revise the planning process.

The commissioner has remanded the Goodpaster River Management Unit decision, for further agency review and public involvement (attachment). The remainder of the plan remains in effect. As a result, we are now in the process of scheduling the particulars for reexamination of the Goodpaster River Management Unit portion of the plan. We will keep you notified.

Finally, I believe there is no justification at this time for alteration of either the planning process or project manager, rather, the process should be allowed to reach its proper conclusion.

Cordially,



Gary Gustafson
Director

cc: Governor Walter Hickel
Lieutenant-Governor Jack Coghill
Commissioner Harold Heinze
Senator Dick Shultz
Senator Bettye Fahrenkamp
Representative Tom Moyer
Representative Mark Boyer
Representative John Gonzales
Bob Dick, DOF
Anna Plager, NRO

Attachment

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT

HW/1990
STEVE COWPER, GOVERNOR

NORTHERN REGION
3700 AIRPORT WAY
FAIRBANKS, ALASKA 99709-4813
PHONE: (907) 451-2700

The Commissioner of the Department of Natural Resources finds that the Tanana Basin Area Plan meets the requirements of AS 38.04.065 and 11 AAC 55.010-.030 for land use plans and hereby adopts the plan for Management Unit 7D. The Department of Natural Resources will manage state lands within the planning area consistent with this plan. The 1990 update of the Tanana Basin Area Plan amends the Tanana Basin Area Plan and supersedes the area plan adopted in 1985.

Rod Swope

Rod Swope, Commissioner
DEPARTMENT OF NATURAL RESOURCES

Nov 30 1990
Date

The Alaska Department of Fish and Game assisted the Department of Natural Resources in preparing the Tanana Basin Area Plan, 1990 Update. We appreciate the opportunity to represent fish and wildlife habitat, harvest, and public use values during the development of the plan. The Department of Fish and Game will use the plan as guidance when implementing its authorities and when reviewing and commenting on proposed uses of state lands in the planning area for Management Unit 7D.

Don Collinsworth

Don Collinsworth, Commissioner
DEPARTMENT OF FISH AND GAME

11.30.90
Date