

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8065 HOUSE RESOURCES

33



ALASKA OUTDOOR COUNCIL

2932 C Street, Suite B
Anchorage, Alaska 99503
(907) 563-4AOC
FAX: (907) 561-0800

February 1, 1994

The Honorable Rick Halford
President of the Senate
State Capitol
Juneau, Alaska 99801-1182

The Honorable Ramona Barnes
Speaker of the House
State Capitol
Juneau, Alaska 99801-1182

Dear President Halford and Speaker Barnes:

The Alaska Outdoor Council cannot support SB 241 at this time, because it would set a precedent regarding the involvement of the Legislature in resource allocation, and by implication, in other elements of fish and game management.

However, we are very concerned with the apparent impasse regarding sockeye salmon allocation under the Kenai River sockeye management plan. It appears to us that an additional allocation is technically feasible, provided that adequate provisions are made to assure that incremental habitat damage associated with increased fishing does not occur.

In our view, habitat protection is the critical issue, although allocation is the more controversial right now.

We urge Commissioner Rosier to persuade the Board of Fisheries to make a special effort to address this issue prior to the 1994 fishing season. It seems to us that the situation warrants closer and timely attention by the Board.

Criteria listed in AS 16.05.251.14 (d) and (e) set strong guidelines regarding fish allocation, including "fair and reasonable opportunity", economics, personal and family consumption, past practices and recreational opportunities for residents and nonresidents.

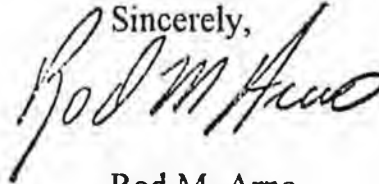
The controversy seems to center on how flexible the management plan is regarding allocation, particularly in response to large runs. Surely under such circumstances an additional sportfishing red salmon allocation is possible without threatening either the spawning escapement or the commercial fishing enterprise.

The Honorable Rick Halford
The Honorable Ramona Barnes
February 1, 1994
Page Two

Increased sportfishing opportunity/allocation could be triggered by a high run projection rather than a specific sonar count, for example. Or provision might be made for emergency opening of sportfishing for reds on all or parts of the Kenai River based on some combination of early indicators of a large run.

However, we re-emphasize that the concern for habitat impacts expressed by all those involved in the debate must be adequately addressed.

Sincerely,

A handwritten signature in cursive script that reads "Rod M. Arno". The signature is written in dark ink and is positioned above the typed name.

Rod M. Arno
President

RMA:RB:ltl

cc: Governor Hickel
Alaska State Legislature
Commissioner Rosier
Kenai River Sportfishing, Inc.
Alaska Sportfishing Association

✓

P.O. Box 220530
Anchorage, Alaska
January 25, 1994

Representative Bill Williams
Room 128
Capitol Building
Juneau, AK 99801

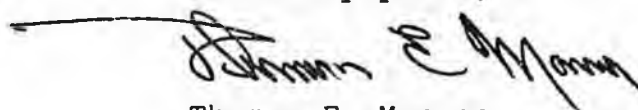
Dear Representative Bill Williams:

We are shocked and disappointed that you are even considering House Bill No. 366, allotting 15 percent of the sockeye salmon from Cook Inlet stock to be utilized exclusively for sport fishing purposes in the Kenai, Susitna and other river systems draining into Cook Inlet !

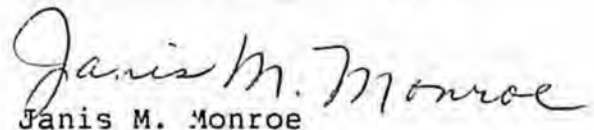
The Cook Inlet fisheries are expecting very poor returns for the next several years as it is. This bill will be disastrous to all Cook Inlet commercial fishermen! You are effectively destroying our chances to earn a living through commercial fishing. We finance the raising of the stocks through our Aquaculture tax, and we are bound by stringent regulations already regarding the areas and times we are allowed to fish.

This changing of the allotment will have a strongly adverse effect on the economy of the entire Kenai Peninsula and Anchorage, itself, just so that sports fishermen can bring home more fish. They fish for the sport, we fish to feed our families.

Sincerely yours,



Thomas E. Monroe



Janis M. Monroe

Post-It™ brand fax transmittal memo 7671		# of pages	2
To	Rep. Bill Williams	From	H.E.R. Enterprises
Co.		Co.	
Dept.		Phone #	
Fax #		Fax #	

H.E.R Enterprises
 Box 382
 Kasilot, AK- 99610
 (907) 262-7515

1-21-94

Dear Representative

I Harold E. Ryden have been a resident on the Kenai Penin. for 33 yrs and I have a small Excavating Business

This Bill Rep number AS 16.05 should be taken care of by the Board of Fisheries as they should know more about the biological escapement of Cook Inlet Sockeye than the Legislature

The Commercial Fisherman have sponsored Hatcheries reproduced fish for the inlet. all the sports fisherman have done is mired the Highways & The Rivers.

The Bottom line is when the Commercial Fisherman do good I also have a good year the sports fisherman have done nothing but clutter the Highways with motorhomes & Sports Boats. If you take away Commercial fishing rights to Harvest Sockeye you are also taking away my rights to making a living.

On The Kenai Penin There are many

other businesses that it would
 effect. the same as it does mine
 thank you for your time & hop
 you will consider my point

Harold E. Elyden

H.E.R Enterprises
 Box 382
 Kasilo, AK 99810
 (907) 262-7515

For your Information -
Distributed by Rep. Gary Davis

January 18, 1994

Alaska Legislators
State Capitol
Juneau, AK 99801-1182

Dear Legislator,

As a twenty year resident of the Kenai Peninsula, a fifteen year Cook Inlet permit holder, a United Cook Inlet Drift Association member of the Board of Directors, and an Alaska Dept. of Fish and Game Advisory Committee member, I strongly urge you to oppose SB 241 and HB 366 recently introduced into the Legislature by Senator Halford and Eldon Mulder.

It is my opinion, and that of most of my associates, from teachers to farmers and fishermen, both sport and commercial, that this bill and its concept poses a great threat to the biological management of both fish and game resources statewide.

A system of management has been established that, first and foremost, manages biologically for the longevity of our resources, the Alaska Board of Fisheries. This system provides opportunity for public input and review where social differences or impact can be heard from local areas statewide. This information is gathered into a general consensus before a Board of devoted people with the support of law and biological order on both sides. The Board of Fisheries, made up of an equal proportion of interest groups, is able to decipher and digest biological, social and economic impacts statewide. It provides a direction for managing our resources in their best interest and those of Alaska's society.

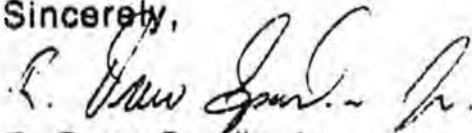
With the introduction of SB 241 and HB 366, we now have a drastic change in the management scheme. Will the pull of special interest groups or just plain popularity have the ability to over-ride the management system already established?

Taking into consideration the scope of our legislative agenda in dealing with the multitude of other issues in dire need of attention and the budget constraints that exist, I question how any legislative action can formulate a better process for management decisions than what is already in place.

By-passing the Board of Fisheries, as the proposed by Representative Mulder, drafted by Mr. Bob Penny and his commercial guide sport constituents, will upset the management scheme. Destruction of habitat and ultimately the resource is already in affect as a result of over use of the most easily accessible regions. I ask you, how can increased use be any benefit to the resource's future?

In order to avoid going the way of the other coastal states where resources have been endangered to the point of extinction (making recovery impossible), through destruction of habitat, you, as a responsible user and an elected official must take a stand against the demands and greed of special interest groups and take a position in favor of preserving the habitat and, ultimately, the resource. Your vote opposing Senate Bill 241 or House Bill 366 will ensure the health of Alaska's resources.

Sincerely,



R. Drew Sparlin Jr.
P.O. Box 283
Kenai, AK. 99611

(907) 283-1912

(907) 224-2625

Ted J. Crookston
HC1 Box 15A
Kenai, AK 99611

January 18, 1994

Dear Senator or Representative:

For many years, I have been a commercial fisherman in the Cook Inlet sockeye salmon fishery. I own property, pay taxes and contribute substantially to the local economy. As a responsible and conscientious fisherman, I am truly appreciative of and encouraged by efforts of the State of Alaska through its Department of Commerce to take a leadership role in developing the seafood industry and in bolstering the image of Alaska seafood products in the world food supply markets.

Furthermore, the establishment of the Board of Fisheries and management based on biological facts and appropriate criteria under the direction of experienced Alaska Department of Fish and Game personnel have helped build this resource up to its present state. However, it is very contradictory to have the legislature consider the actions that are proposed in bill AS 16.05. This bill represents those who are listening to so called sports fishing advocates who are pursuing their own exploitative agenda. The results of this legislation would be unconscionable.

- * The legislature would be entering the realm of fisheries management and political issues would take priority over biological concerns.
- * This legislation would change the priority on Cook Inlet sockeye salmon stocks during the period of July 1 through August 15 from the commercial fishery to the recreational fishery.
- * The legislation would provide a dip net fishery in the first 40 miles of the Kenai River.
- * The 15% minimum is expressed to be only a "minimum" and that additional sport harvest will be provided if the need for more fish is evident on a yearly basis.
- * The legislation will increase the destruction of habitat already occurring in the Kenai River system.
- * The legislation would increase the occurrence of over escapement and jeopardize the health of stocks.

The stability and continued viability of both the river system fishing resource itself and Cook Inlet commercial fishing industry are being compromised and placed at risk. I urge you to vote against AS 16.05. Please support the management plan and policy as established by the Board of Fisheries and vote in favor of the continued legacy of the Kenai River which has benefited the lives of so many - commercial and sports fishermen alike. This letter represents the views of other family members, friends and associates as listed as well as many others who are not listed.

Sincerely,



TED J. CROOKSTON

TJC/cg

Laurie Crookston
Molly Crookston
Pat Crookston
Lee Crookston
Stephen Crookston
Kendall Carlson
Paul Carlson
Mont Frandsen
Farris Crookston
Connie Forsgren
Dave Lucas
Dixie Lucas
Peter Buckelew
Rila Johnson
Jerry Johnson

Paul Crookston
Michael Crookston
Katie Crookston
Neal Crookston
Samuel Henley
Thad Carlson
Dave Riplinger
Karen Frandsen
Nick A. Crookston
Clair Crookston
Linda Lucas
Frank Canady
Sherrie Buckelew
Robert Johnson
Jonie Johnson

Alan Crookston
Kent Crookston
Bryan Crookston
Megan Crookston
Shirley Henley
Carol Carlson
Tim Isatt
Doug Crookston
John Forsgren
LaDell Crookston
Don Lucas
Randy Canady
Keith Johnson
Alison Johnson
Dottie Corson



Alaska State Legislature

Please enter into the record my testimony to the H & S
RESOURCES
 committee name
 HB 366 &
 committee on SB 241, dated Jan 18, 1994
 bill/subject

I WANT TO REGISTER OPPOSITION TO SB 241. THE POLICY STATEMENT CLAIMS TO BENEFIT ALL SOOK INLET DRAINAGES WHEN IN FACT IT WAS DRAFTED FOR THE EXPRESS BENEFIT OF SPORT FISH INTERESTS ON THE KENAI RIVER ALONE. THE LANGUAGE IS VAGUE, UNMANAGEABLE AND UNENFORCEABLE. HOW CAN COMMERCIAL "HARVEST" BE USED FOR SPORT PURPOSES?

THE CENTRAL DISTRICT HAS SURRENDERED ALL RUNS EXCEPT A PORTION OF THE SECOND SORKEYE RUN TO SPORT FISH INTERESTS.

THIS KIND OF FISHERIES MANAGEMENT BY POLICY WILL DEVASTATE THE HABITAT AND DESTROY THE FISHERY - OR ANY THAT IT ATTACHES TO.

WE MUST DEMAND MANAGEMENT & ALLOCATIONS FOR THE HEALTH OF ALL RUNS TO THE BENEFIT OF ALL USERS. MICRO-MANAGEMENT OF THIS SORT IS DEPLORABLE! THE CENTRAL DISTRICT -- and SOOK all districts -- IS BEING REGULATED INTO OBLIVION.

Signed:

Testifier

NANCY T. PALE

Representing (Optional)

HC 31 BOX 5099 P WASILLA

Address

370-2280

Phone No.

NO! TO SB 241.



34824 Kalifornsky Beach Road • Suite E • Soldotna • Alaska • 99669 • (907) 262-2492

January 7, 1994

Representative Bill Williams, Chair
House Resources Committee
State Capitol
Juneau, Alaska 99801-1182

**Sent By FAX Transmission
Hard Copy Follows By Mail**

Dear Representative Williams:

The Kenai Peninsula Fishermen's Association (KPFA), a group of over 400 commercial fishermen operating in the Cook Inlet area, would like to go on record early as being opposed to Representative Mulder's proposed legislation to allocate additional sockeye away from the Cook Inlet commercial fishery to the Upper Cook Inlet sport fishery. At the time of writing this letter, the bill had not been prefiled and so I cannot reference a specific bill number, but I am enclosing a copy of the draft bill.

The specific issues addressed in Rep. Mulder's bill have been addressed many times before the Alaska Board of Fisheries - a forum where the public participates vigorously and where biological and other scientific data are presented and examined. A significant record has been built as to why the Board of Fisheries has not already reallocated this fishery further. The actions taken were not based on social debate alone but on substantial biological data coupled with socio-economic information. All of the information was examined with respect to the allocation criteria mandated by the legislature.

The Board of Fisheries is the forum where these issues should be debated and decided. The Board is functioning in the manner for which it was designed. By taking on Cook Inlet allocation issues, the legislature will soon find itself in the position of doing nothing except debating statewide fisheries' allocation issues.

Representative Bill Williams
January 7, 1994
Page 2

I would also like to point out that all of the Kenai Peninsula legislators, Senator Suzanne Little, Senator Judy Salo, Rep. Gary Davis, Rep. Mike Navarre, and Rep. Gail Phillips, are opposed to this legislation. This legislation would create fisheries management based on politics without biological consideration.

KPFA is preparing a detailed analysis and critique of this proposal which we will be forwarding to you soon. In the meantime, if you have any questions or comments please contact our office. We will be happy to provide any information you require as this debate unfolds.

Sincerely,



Ken Coleman
President

cc: Rep. Carl Moses, House Fisheries Committee
Senator Suzanne Little
Senator Judy Salo
Representative Gary Davis
Representative Mike Navarre
Representative Gail Phillips



UCIDA

UNITED COOK INLET DRIFT ASSOCIATION
P.O. Box 389 • Kenai, Alaska 99611 - 0389
(907) 283-3600 • FAX (907) 283-3306

**KENAI RIVER SOCKEYE ALLOCATION
LEGISLATIVE MEMO #1**

Alaska State Legislators
State Capitol
Juneau, AK 99801-1182

Dear Legislator,

I'm writing to inform you of our strong opposition to Cook Inlet allocation legislation to amend AS 16.05, Management of Cook Inlet Sockeye Salmon, being proposed by Representative Mulder which has been requested by Mr. Bob Penny and some heretofore unknown "organization" calling itself Cook Inlet Sportfishing Caucus (CISC).

Sockeye salmon harvests represent 90-95% of the income for the commercial fishing industry in Cook Inlet. Therefore, when dealing with sockeye salmon allocation issues, United Cook Inlet Drift Association (UCIDA) represents the 3,500 harvesters, 3,000 processing workers and all those who work in the many other industries that support ours. Our industry represents 40% of the work force in the Kenai Peninsula Borough during the fishing season. Furthermore, 79% of the commercial salmon permit holders in Cook Inlet are Alaskan residents - this is one of the highest residency rates for any of Alaska's major commercial fisheries.

Rep. Mulder and CISC propose to have the legislature enter into the realm of fish and game allocation which is properly reserved to the Boards of Fisheries and Game. Alaska's fish and game resources and local communities dependent on resources desired by others with more political clout or votes on any given day will not survive "management and allocation" by politics.

Consideration of this legislation will set a precedent for all controversial fish and game issues to come before the legislature. No one should be under the illusion that this is just

an isolated Cook Inlet allocation issue. Once the legislature enters into the realm of fisheries allocation between sport and commercial users in Cook Inlet the next step will be to take up sport/commercial disputes in all other areas of the state. Following that, the legislature will undoubtedly be asked to take up issues within commercial and sport user groups - e.g. bait vs. fly sportsfishermen, guided vs. non-guided sportsfishermen, and the obvious allocation issues within the commercial fishing community. It must also be noted that Game issues (wolves, caribou, etc.) will not be immune from this precedent.

Rep. Mulder's proposal presents all of the negative aspects of political allocation just noted:

- 1) The habitat destruction already acknowledged as being caused by the sockeye fishery from the river banks will be increased dramatically and on a permanent annual basis. It should be noted also that, ironically, the habitat and the fishery resources most at risk are the king and coho salmon which have made the Kenai River a truly renowned "sport fishery".
- 2) The current proposal requests an "allocation" far beyond the capacity of the "sport" fishery to harvest in the Kenai River during large returns. The dipnet solution to this little flaw in logic being proposed by Rep. Mulder would only dramatically increase boat traffic on a river that is universally acknowledged as being currently over utilized. Furthermore, crowding problems in the Kasilof and Susitna systems will likewise be compounded.
- 3) Further, the "sport" harvests mandated in the Susitna and Kasilof systems, in and of themselves, would assure major reductions or elimination of harvest opportunities for commercial fishermen in order to assure enough sockeye enter those systems. The commercial fishery in Cook Inlet would simply not remain a viable industry.

UCIDA is preparing an information packet to address the multitude of misrepresentations being presented by Mr. Penny and CISC. We will have representatives in Juneau soon to discuss this issue with you. In the meantime, we hope you will resist Representative Mulder's request for the

Legislative Memo #1

Page 3 of 3

legislature to open up the pandora's box of fish and game "allocation by legislation". Once opened, all fish and game issues statewide - even those within the sportfishing community - will be fair game and before future legislatures.

Please feel free to contact the UCIDA office for further information.

Sincerely,



Theo Matthews
Administrative Assistant

Enclosure: Homer News article, Some like sockeye bill, others don't

John Efta
P.O. Box 353
Kenai, Alaska

January 11, 1994

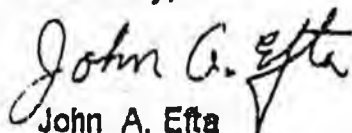
Dear Legislator,

I am writing concerning a proposed bill that Representative Eldon Mulder and House Speaker Ramona Barnes are backing. The bill's intent is to give a fifteen percent allocation of the total run of reds in Cook Inlet to the sports fishermen. I am not going to elaborate on all of the consequences of what will happen if you support such an idea. I believe you should have the foresight to understand all the issues involved if you are going to take over the job of being a fish manager. I find it strange that any legislator could support a bill that deals with allocation, but at the same time is a biological, economic and environmental issue.

If such legislation is supported and passed, there is no need for the Alaska Board of Fish or the other supporting agencies that carry out the tasks of enforcing regulations. You would have become the Board of Fish! If you now sit on the Board of Fish, you must be prepared to take on all issues concerning sport fishing, sport guides, subsistence, and commercial fishing. If you support this legislation, you have opened "Pandora's Box". You now must be prepared to deal with all fisheries issues in Cook Inlet and — Yes — all fisheries issues in all of the regions in the state!

I don't believe the board process should be thrown out. The process was created in order that decisions be made to ensure the health of the resource. I don't think politics can address all of the issues that are necessary to put the health of the resource first. I respectfully ask that you please not support this type of legislation. Thank You.

Sincerely,


John A. Efta

HOMER NEWS

 UCIDA
 P.O. 507
 KENAI, AK

Homer, Alaska, Vol 21, No. 1

Thursday, January 6, 1984

Some like sockeye bill, others don't

by Doug Loshbaugh
 Staff Writer

An Anchorage legislator says he expects 21 representatives and 11 senators to sign onto his bill to allocate 15 percent of the Cook Inlet red salmon catch to sport fishermen.

But Homer-area sport fishermen contacted by the Homer News expressed little support for the bill, which Rep. Eldon Mulder, R-Anch., said he'll file next week.

"I wouldn't even be in favor of it," said Meryl Wolford, an Anchor Point sport-fishing guide. "In my mind, reds aren't real sport fish."

He said sportsmen should focus efforts on kings and silvers.

"I'd give commercial fishermen every red salmon in the state of Alaska if they'd be a little more sympathetic on our kings and silvers," Wolford said.

Homer sport-fishing guide Frank Libal, vice president of the South Peninsula Sportsman's Association, doubted hook-and-line fishermen could even take 15 percent of a big Cook Inlet run.

"You can't do it in salt water," he said. "In fresh water, only a small percentage of fishermen are legitimately taking those fish. The rest are snagging. That's not sport fishing to me."

Homer commercial drift fisherman Bill Choate said allocating 15 percent to sport fishermen could ruin the commercial fleet.

"They're talking a price of 60 cents a pound next year. That's pushing an average season to \$10,000 or \$15,000. Fifteen percent would be a lot of people's insurance payments. How much blood can you squeeze

from a turnip?"

He said the more Anchorage grows, the more sacrifices its residents demand from commercial fishermen. Theo Matthews, administrative assistant for the United Cook Inlet Drift Association, said commercial fishermen have already given up the early reds and kings and face increasing restrictions to protect Kenai River silvers.

Choate said he could imagine being driven out of commercial fishing. But he's fished so long, he can't imagine leaving.

"My lifestyle — the essence of who I am — is being gnawed away," he said. "It's real scary when you're middle-aged. Say I owned a gas station and they re-routed the highway."

Matthews said new allocations to sport fishermen would increase damage to the banks of the Kenai River.

Libal and Homer charter operator Jack Montgomery said they feared sport fishermen couldn't keep up if managers let too many reds past commercial fishermen. There might be too many spawners in the Kenai River. Biologists already predict a series of poor runs because excess spawners overloaded the river in the late 1980s.

Biologist Steve Hammarstrom of the Alaska Department of Fish and Game in Soldotna said that if 1.5 million reds entered the Kenai, as happened in 1987, rod-and-reel fishermen probably couldn't reduce them to the maximum of 700,000 spawners sought by biologists. Dipnetters might do it, he said. But Libal said he doesn't believe dipnetting is sport fishing.

"That's personal use or subsistence to me," Libal said. "If you're going to allocate to sport fishing, that's hook-and-line."

HB

384

(9)

Date Referred: January 26, 1994

FURTHER REFERRALS:

Date of Committee Action: 1/31/94

The RESOURCES Committee considered:

HB 384

HOUSE BILL NO. 384

FINANCIAL REQMTS: NONCRUDE OIL OPERATIONS

"An Act eliminating the temporary character of alternative procedures available to persons who must show evidence of financial responsibility before conducting noncrude oil operations; and providing for an effective date."

RECOMMENDATIONS: the same title
be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) DEC / 1-26-94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				

[Signature]
CHAIRMAN'S SIGNATURE

Alaska House of Representatives

Richard Foster
P.O. Box 1630
Nome, Alaska 99762-1630
907-443-5036
Fax 907-443-2162



During Session
State Capitol
Juneau, Alaska 99801-1182
907-465-3789
Fax 907-465-3242

MEMORANDUM

To: Rep. Bill Williams, Chair
House Resources Committee

From: Rep. Richard Foster *R.F.*

RE: Scheduling HB 384

Date: January 25, 1994

I would appreciate HB 384 being heard by the House Resources Committee some time in the near future. This piece of legislation is supported by the Department of Environmental Conservation and is needed by the end of this legislative year.

Please contact my office if you have questions or need additional information.

Thank you for your consideration.

Alaska House of Representatives

Richard Foster
P.O. Box 1630
Nome, Alaska 99762-1630
907-443-5036
Fax 907-443-2162



During Session
State Capitol
Juneau, Alaska 99801-1182
907-465-3789
Fax 907-465-3242

HB 384 FINANCIAL RESPONSIBILITY OF NON CRUDE OPERATORS

Background Paper

History: On March 24, 1989 the *Exxon Valdez* ran aground on Bligh Reef in Prince William Sound, causing the largest crude oil spill in the United States history. As a result, the Alaska Legislature and the United States Congress significantly strengthened oil spill prevention and cleanup standards. One bill, HB 567, passed in 1990, made three major changes in state oil spill protection. It 1) established new response planning standards; 2) imposed new financial responsibility requirements for contingency plan holders; and 3) allowed the Department of Environmental Conservation to give credits for incorporating prevention measures into contingency plans. These major changes were to have gone into effect on and after June 1, 1991.

Although HB 567 was passed as a result of the *Exxon Valdez* oil spill and was aimed at the crude oil industry, non crude carriers and facilities were also subject to the changes. Regulations implementing these changes have been drafted by the Department of Environmental Conservation, and are still being viewed by the Department of Law.

Problem: Smaller fuel distributors, barge lines that transport refined petroleum products, and rural electric utilities that must maintain fuel stores have found it all but impossible to meet the new financial responsibility requirements imposed by HB 567. Although these non crude operators *are* able to purchase the required amounts of pollution insurance, underwriters in both the domestic and overseas markets steadfastly refuse to include the "direct action" clause in these policies that Alaska law requires.

Alaska's direct action requirements have been in effect since 1981. The provision allows an action to be brought in state court directly against the insurer, rather than going first to the responsible party. Ambiguities about whether insurers are limited to the face amount of the policy, plus the greatly increased amounts of coverage required since the *Exxon Valdez* spill, have combined to produce the current unavailability of direct action coverage.

When it became clear by early 1991 that insurers would not provide direct action coverage, Senator Lyman Hoffman introduced legislation to delay the effective date of HB 567's financial responsibility requirements for non crude operations. The hope was that over the year's time, either the insurance markets would overcome their objections to provide direct action, or that perhaps a risk pool could be developed to provide such coverage. The Legislature unanimously approved Senator Hoffman's bill.

To date, there has been no change in the insurance markets position on direct action coverage, and development of an insurance pool so far has proved unfeasible. With the June 1, 1994 date of the financial responsibility requirements approaching, and the unavailability of direct action coverage just as complete as it was in 1991, non crude operators once again face the prospect of either operating out of compliance with Alaska law or ceasing operations. The large crude oil operators do not face this problem, because they have sufficient assets and working capital to either self-insure or comply with the law through other means, such as surety bonds or letters of credit.

Solution: This act repeals Section 6 which is the Sunset clause repealing Section 2 TEMPORARY LAW APPLICABLE TO NON CRUDE OIL OPERATIONS.

Chapter 101

Chapter 102

- 1 (16) AS 21.69.600, 21.69.620 and 21.69.630
- 2 (17) AS 21.78
- 3 (18) AS 21.89.010
- 4 (19) AS 21.89.060
- 5 (20) AS 21.90

- 6 * Sec. 4. AS 21.42.385 is repealed.
- 7 * Sec. 5. Sections 3 and 4 of this Act take effect July 1, 1998
- 8 * Sec. 6. Except as provided in sec. 5 of this Act, this Act takes effect July 1, 1993.

4 take
/1/98;
of ..
/1/93

AN ACT

1 Relating to evidence of financial responsibility provided by persons who conduct oil operations; and
2 providing for an effective date.

3
4 * Section 1. AS 46.04.040(e) is amended to read:

5 (e) Financial responsibility may be demonstrated by (1) self-insurance, (2) insurance, (3)
6 surety, (4) guaranty, (5) letter of credit approved by the department, or (6) other proof of
7 financial responsibility approved by the department, including proof of financial responsibility
8 provided by a group of insureds who have agreed to cover pollution risks of members of the
9 group under terms the department may prescribe. An action brought under AS 46.03.738,
10 46.03.739, 46.03.740(a) or (c), 46.03.822, or AS 46.04.030(g) may be brought in a state court
11 directly against the insurer, the group, or another person providing evidence of financial
12 responsibility; however, the liability under this section of a third-party insurer is limited to
13 the type of risk assumed and the amount of coverage specified in the proof of financial
14 responsibility furnished to and approved by the department. The applicant, and an insurer,

46.04.040(e)

Chapter 102

1 surety, guarantor, person furnishing an approved letter of credit, or other group or person
 2 providing proof of financial responsibility approved by the department shall appoint an agent for
 3 service of process in the state. For purposes of this subsection, an insurer, other than a group
 4 of insurers whose agreement has been approved by the department, must either be authorized by
 5 the Department of Commerce and Economic Development to sell insurance in the state or be an
 6 unauthorized insurer listed by the Department of Commerce and Economic Development as not
 7 disapproved for use in the state. In this subsection, "third-party insurer" means a third-party
 8 insurer, surety, guarantor, person furnishing a letter of credit, or other group or person
 9 providing proof of financial responsibility, on behalf of an applicant under this section;
 10 "third-party insurer" does not include the applicant.

11 * Sec. 2. TEMPORARY LAW APPLICABLE TO NONCRUDE OIL OPERATIONS.

12 Notwithstanding AS 46.04.010, the Department of Environmental Conservation may, with respect to
 13 noncrude oil operations, approve proof of financial responsibility by a person, other than the applicant,
 14 who does not agree to be subject to a direct action in the state or to appoint an agent for service of
 15 process if the applicant

16 (1) provides proof of financial responsibility in the form and amounts otherwise required
 17 under AS 46.04.040,

18 (2) provides a sworn statement that

19 (A) is acceptable to the department;

20 (B) attests that the applicant has diligently attempted to obtain a form of proof
 21 of financial responsibility that would provide for a direct action and appointment of an agent for
 22 service of process;

23 (C) describes the steps the applicant has taken to obtain a form of proof of
 24 financial responsibility that would provide for a direct action and appointment of an agent for
 25 service of process;

26 (D) states that a form of proof of financial responsibility that would provide for
 27 a direct action and appointment of an agent for service of process is unavailable to the applicant;

28 (E) continues diligent efforts to obtain a form of proof of financial responsibility that
 29 would provide for a direct action and appointment of an agent for service of process and provides a
 30 sworn statement every six months that is acceptable to the department, containing the information
 31 required in (2) of this section.

Chapter 102

1 * Sec. 3. RATIFICATION OF PREVIOUS EXEMPTIONS GIVEN BY DEPARTMENT OF
 2 ENVIRONMENTAL CONSERVATION TO NONCRUDE OIL OPERATIONS. Notwithstanding
 3 AS 46.04.040, the Department of Environmental Conservation may, with respect to noncrude oil
 4 operations, approve proof of financial responsibility by a person, other than the applicant, who does not
 5 agree to be subject to a direct action in the state or to appoint an agent for service of process if the
 6 applicant, before June 1, 1992,

7 (1) provides proof of financial responsibility in the form and amounts otherwise required
 8 under AS 46.04.040,

9 (2) attests in a statement to the department that the applicant has diligently attempted to
 10 obtain a form of proof of financial responsibility that would provide for a direct action and appointment
 11 of an agent for service of process and that this form of proof is unavailable to the applicant; and

12 (3) agrees to continue diligent efforts to obtain a form of proof of financial responsibility
 13 that would provide for a direct action and appointment of an agent for service of process.

14 * Sec. 4. Section 3 of this Act is retroactive to June 1, 1991.

15 * Sec. 5. If this Act takes effect after June 1, 1992, sec. 2 of this Act is retroactive to June 1, 1992.

16 * Sec. 6. Section 2 of this Act is repealed June 1, 1994.

17 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

Eff. 6/21/92
 § 2 is retro-
 active to 6/
 § 3 is retro-
 active to 6/

AN ACT

1 Relating to oil discharge prevention and contingency plans and financial responsibility
2 requirements for oil operations; and providing for an effective date.

3
4
5
6 * Section 1. FINDINGS. The legislature finds that

7 (1) whereas crude oil companies have indicated their intention and ability to be in
8 compliance with the June 1, 1991, applicability date of ch. 191, SLA 1990, including the new oil spill
9 response planning standards and new financial responsibility requirements, the entities involved in the
10 transportation and storage of noncrude oil are finding it difficult, if not impossible, to meet those
11 requirements by June 1, 1991, due to unforeseen developments;

12 (2) these developments include the fact that the London insurance markets, historically
13 the source of pollution liability insurance underwriting, are steadfastly refusing to offer policies that meet
14 the new financial responsibility requirements imposed by ch. 191, SLA 1990; most notably, they have
15 refused to issue certificates of financial responsibility or make themselves available for direct legal action
16 in Alaska courts;

17 (3) while larger companies involved in the transportation and storage of crude oil have
18 the financial ability to meet the new financial responsibility requirements through self-insurance, surety
19 bonding, or letters of credit, most noncrude transporters and facility operators do not have the financial
20 resources to make use of these avenues to satisfy the requirements;

21 (4) additionally, a study mandated by ch. 191, SLA 1990, designed to identify appropriate

1 spill response times, specify personnel levels and equipment requirements, and identify specific locations
 2 for oil discharge response equipment depots for noncrude oil tankers and barges will not be completed
 3 until at least one month after June 1, 1991; this study's findings could have a significant effect on
 4 emergency spill response planning by both transporters and the state;

5 (5) taken together, the uncertainties posed by these developments create a strong
 6 possibility that many noncrude transporters and facility operators will find it necessary to either operate
 7 illegally or cease operations in the state after June 1, 1991, which would in turn pose serious problems
 8 for the residents of communities dependent on delivery and storage of noncrude oil products for fuel and
 9 electrical generation;

10 (6) a one-year delay to June 1, 1992, in the applicability date for compliance with the
 11 requirements of ch. 191, SLA 1990, for noncrude transporters and facility operators will allow thorough
 12 consideration of the study described in (4) of this section and implementation of its findings into
 13 emergency response planning; will permit noncrude transporters and operators to explore other options
 14 to meet the statute's financial responsibility requirements, including the possibility of developing an
 15 insurance pool to replace the coverage no longer being offered by the traditional insurance markets; and
 16 will provide adequate time for the Department of Environmental Conservation to develop its
 17 implementing regulations for contingency planning.

18 * Sec. 2. Section 32, ch. 191, SLA 1990, is amended to read:

19 Sec. 32. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(k) - (m), enacted by sec.
 20 10 of this Act, do not apply to oil discharge prevention and contingency plans for crude oil
 21 operations until June 1, 1991. On and after June 1, 1991, a contingency plan for a crude oil
 22 operation must comply with AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, regardless
 23 of whether the contingency plan is due for renewal under AS 46.04.030(d), as amended by sec.
 24 9 of this Act.

25 (b) The amendments to AS 46.04.040, made by secs. 11 - 18 of this Act, do not apply
 26 to persons required to show proof of financial responsibility for crude oil operations until
 27 June 1, 1991. On and after June 1, 1991, proof of financial responsibility for a crude oil
 28 operation must comply with AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless
 29 of whether acceptance of proof of financial responsibility has expired under AS 46.04.040(f), as
 30 amended by sec. 16 of this Act.

1 * Sec. 3. Section 32, ch. 191, SLA 1990, is amended by adding new subsections to read:

2 (c) AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, do not apply to oil discharge
 3 prevention and contingency plans for noncrude oil operations until June 1, 1992. On and after June 1,
 4 1992, a contingency plan for a noncrude oil operation must comply with AS 46.04.030(k) - (m), enacted
 5 by sec. 10 of this Act, regardless of whether the contingency plan is due for renewal under
 6 AS 46.04.030(d), as amended by sec. 9 of this Act.

7 (d) The amendments to AS 46.04.040 made by secs. 11 - 13 of this Act do not apply to persons
 8 required to show proof of financial responsibility for noncrude oil operations until June 1, 1992. On and
 9 after June 1, 1992, proof of financial responsibility for a noncrude oil operation must comply with
 10 AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless of whether acceptance of proof of
 11 financial responsibility has expired under AS 46.04.040(f), as amended by sec. 16 of this Act.

12 * Sec. 4. INTERIM OPERATION. (n) A person with a crude oil discharge prevention and
 13 contingency plan that is approved under AS 46.04.030 who submits plan amendments to the department
 14 to show compliance with the requirements of ch. 191, SLA 1990, may continue to operate if the
 15 department determines and notifies the person in writing that the contingency plan, as amended,
 16 substantially complies with the requirements of ch. 191, SLA 1990. The department's notification of
 17 substantial compliance for the interim contingency plan will allow the operator to continue operation
 18 regardless of whether the department has completed any notice process otherwise required by the Alaska
 19 Coastal Management Program for the interim operation.

20 (b) The authority to operate under this section is valid only until the earliest of the following
 21 dates:

22 (1) the date the department takes action on the amended plan under AS 46.04.030 by
 23 approving it, disapproving it, or approving it with terms or conditions attached; notwithstanding
 24 AS 46.04.030(p), the department's action on the amended plan need not occur within 65 days of
 25 submission of the amendments.

26 (2) the date the department revokes the plan under AS 46.04.030;

27 (3) the date the plan's previous approval lapses or expires for failure to be renewed; or

28 (4) February 1, 1992.

29 (c) In this section, "department" means the Department of Environmental Conservation.

30 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. House Bill No. 384

Revision Date: _____ Dept. Affected: Environmental Conservation
 Title: Financial Requirements: Noncrude Oil Operations BRU: Spill Prevention and Response
 Component: Industry Preparedness and Response
 Sponsor: Representative Foster
 Requestor: House Oil & Gas COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTA						
Other: 1052 Oil/Haz "470" Fund	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ not applicable

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact anticipated.

Prepared by: Robert Poe, Director
 Division: Information and Administrative Services
 Approved by: John Sandor, Commissioner
 Agency: Environmental Conservation

Phone: 465-5010
 Date: 1/20/94
 Date: 1/20/94

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HOUSE RESOURCES COMMITTEE

SUBJECT OF MEETING:

HR 384

DATE: 1/31/97

PLACE: Capitol, Room 124

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Larry LaBalle	Rep. Foster	420 Capitol Bldg		37	3789	<input checked="" type="radio"/>	N	HB 348
						<input type="radio"/>	N	
						<input type="radio"/>	N	
						<input type="radio"/>	N	
						<input type="radio"/>	N	
						<input type="radio"/>	N	
						<input type="radio"/>	N	
						<input type="radio"/>	N	
						<input type="radio"/>	N	
						<input type="radio"/>	N	

863

HB

HOUSE COMMITTEE REPORT

(9)

Date Referred: February 15, 1994

FURTHER REFERRALS:

Date of Committee Action: 2/23/94

The RESOURCES Committee considered:

HB 398

HOUSE BILL NO. 398

LAND CONVEYED TO & FROM MUNICIPALITIES

"An Act relating to rights in certain tide and submerged land."

RECOMMENDATIONS:

be replaced with _____

CS HB 398 (RES)

the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note DNR 2/23/94

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
<i>Bill Hudson</i> Hudson	<input checked="" type="checkbox"/>				
<i>John Carney</i> Carney	<input checked="" type="checkbox"/>				
<i>Joseph Green</i> Green	<input checked="" type="checkbox"/>				
<i>James James</i> James	<input checked="" type="checkbox"/>				
<i>David Finkelstein</i> Finkelstein	<input checked="" type="checkbox"/>				
<i>Ge. Davies</i> Davies	<input checked="" type="checkbox"/>				
<i>Alton Mulder</i> Mulder	<input checked="" type="checkbox"/>				
<i>Car Bunde</i> Bunde	<input checked="" type="checkbox"/>				
<i>W.F. Williams</i> Williams	<input checked="" type="checkbox"/>				

W.F. Williams
 CHAIRMAN'S SIGNATURE

8-LS15820
Cook
2/22/94

CS FOR HOUSE BILL NO. 398()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE OLBERG

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to conveyance of certain land to municipalities."

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

3 * Section 1. AS 38.05.035(b) is amended to read:

4 (b) The director may

5 (1) delegate the administrative duties, functions or powers imposed
6 upon the director to a responsible employee in the division;

7 (2) grant preference rights for the lease or purchase of state land
8 without competitive bid in order to correct errors or omissions of a state or federal
9 administrative agency when inequitable detriment would otherwise result to a diligent
10 claimant or applicant due to situations over which the claimant or applicant had no
11 control; the exercise of this discretionary power operates only to divest the state of its
12 title to or interests in land and may be exercised only

13 (A) with the express approval of the commissioner; and

14 (B) if the application for the preference right is filed with the

- 1 director within three years from
- 2 (i) the occurrence of the error or omission;
- 3 (ii) the date of acquisition by the state of the land; or
- 4 (iii) the date of a court decision or settlement nullifying
- 5 a disposal of state land;
- 6 (3) grant a preference right to a claimant who shows bona fide
- 7 improvement of state land or of federal land subsequently acquired by the state and
- 8 who has in good faith sought to obtain title to the land but who, through error or
- 9 omission of others occurring within the three years before (A) the application for the
- 10 preference right, (B) the date of acquisition by the state of the land, or (C) the date of
- 11 a court decision or settlement nullifying a disposal of state land, has been denied title
- 12 to it; upon a showing satisfactory to the commissioner, the claimant may lease or
- 13 purchase the land at the price set on the date of original entry on the land or, if a price
- 14 was not set at that time at a price determined by the director to fairly represent the
- 15 value of unimproved land at the time the claim was established, but in no event less
- 16 than the cost of administration including survey; the error or omission of a predecessor
- 17 in interest or an agent, administrator, or executor which has clearly prejudiced the
- 18 claimant may be the basis for granting a preference right;
- 19 (4) sell land by lottery for less than the appraised value when, in the
- 20 judgment of the director, past scarcity of land suitable for private ownership in any
- 21 particular area has resulted in unrealistic land values;
- 22 (5) when the director determines it is in the best interest of the state
- 23 and will avoid injustice to a person or the heirs or devisees of a person, dispose of
- 24 land, by direct negotiation to that person who presently uses and who used and made
- 25 improvements to that land before January 3, 1959, or to the heirs or devisees of the
- 26 person; the amount paid for the land shall be its fair market value on the date that the
- 27 person first entered the land, as determined by the director; a parcel of land disposed
- 28 of under this paragraph shall be of a size consistent with the person's prior use, but
- 29 may not exceed five acres;
- 30 (6) dispose of an interest in land limited to use for agricultural purposes
- 31 by lottery;

1 (7) convey to an adjoining landowner for its fair market value a
2 remnant of land that the director considers unmanageable or a parcel of land created
3 by a highway right-of-way alignment or realignment, or a parcel created by the
4 vacation of a state-owned right-of-way if

5 (A) the director determines that it is in the best interests of the
6 state;

7 (B) the parcel does not exceed the minimum lot size under an
8 applicable zoning code; and

9 (C) the director and the platting authority having land use
10 planning jurisdiction agree that conveyance of the parcel to the adjoining
11 landowner will result in boundaries that are convenient for the use of the land
12 by the landowner and compatible with municipal land use plans;

13 (8) for good cause extend for up to 90 days the time for rental or
14 installment payments by a lessee or purchaser of state land under this chapter if
15 reasonable penalties and interest set by the director are paid;

16 (9) quitclaim land or an interest in land to the federal government on
17 a determination that the land or the interest in land was wrongfully or erroneously
18 conveyed by the federal government to the state;

19 (10) negotiate the sale or lease of state land at fair market value to a
20 person who acquired by contract, purchase, or lease rights to improvements on the land
21 from another state agency or who leased the land from another state agency;

22 (11) quitclaim land or an interest in land, including submerged or
23 shore land, to a municipality to correct errors or omissions of the municipality
24 when inequitable detriment would result to a person due to that person's reliance
25 on the errors or omissions of the municipality; the quitclaim shall be made on the
26 terms and conditions the director considers appropriate except that, if the
27 municipality has a remaining entitlement to land under AS 29.65, the land or
28 interest quitclaimed under this paragraph is counted against the municipality's
29 remaining entitlement.

30 * Sec. 2. AS 38.05 is amended by adding a new section to read:

31 Sec. 38.05.825. CONVEYANCE OF TIDE AND SUBMERGED LAND TO

1 MUNICIPALITIES. (a) The commissioner shall convey to a municipality tide or
2 submerged land requested by the municipality that is occupied or suitable for
3 occupation and development if

4 (1) the use of the land would not unreasonably interfere with navigation
5 or public access;

6 (2) the municipality has applied to the commissioner for conveyance
7 of the land under this section;

8 (3) the land is classified for waterfront development or for another use
9 that is consistent or compatible with the use proposed by the municipality, or the
10 proposed use of the land by the municipality is consistent or compatible with a land
11 use plan adopted by the municipality, the department, or the Alaska Coastal Policy
12 Council; and

13 (4) the land is required for the accomplishment of a public or private
14 development approved by the municipality, is the subject of a lease from the state to
15 the municipality, or has been approved for lease to the municipality.

16 (b) The commissioner may not convey land under this section that has been
17 designated by the legislature unless the commissioner determines that the proposed use
18 is consistent or compatible with the purpose of the legislative designation. If land
19 designated by the legislature is conveyed, uses of the land after conveyance shall be
20 restricted to those uses determined by the commissioner to be consistent or compatible
21 with the purpose of the designation.

22 (c) Upon receipt of an application, the commissioner shall determine whether
23 the requested conveyance meets the requirements of this section and issue a written
24 decision regarding that determination. Upon a determination that the requirements
25 have been met, the commissioner shall approve the conveyance of the land to the
26 municipality. After conveyance to the municipality is approved, the municipality has
27 management authority of the land and may execute leases of the land. The cost of the
28 survey and all subdivision or other platting required for conveyance shall be borne by
29 the municipality.

30 (d) A conveyance under this section may contain only those restrictions
31 required by law, including AS 38.05.127. Land conveyed is subject to the public trust

1 doctrine that may be enforced by the state in a court of competent jurisdiction. The
2 municipality shall be required to ensure that reasonable access to public waters is
3 provided. Title to land conveyed under this section that is retained by the municipality
4 reverts to the state upon the dissolution of the municipality.

5 (e) This section does not enlarge or diminish the general grant land entitlement
6 of a municipality under AS 29.65, nor is a conveyance under this section counted
7 against the municipality's general grant land entitlement.

8 * Sec. 3. AS 38.05.035(b)(11) is repealed January 1, 1998.

SPONSOR SUMMARY

HB398

An Act relating to rights in certain tide and submerged land

Need for the Legislation

At a time when the State of Alaska is imposing a greater measure of self-sufficiency on local governments and promoting economic development at the local level, current state statutes work against communities of a certain class or which were or will be incorporated after April 1, 1964.

In particular, Title 38 of Alaska Statutes fails to recognize second class cities as eligible to obtain tide and submerged lands despite the fact that home rule and first class cities incorporated prior to April 1, 1964, have this right. The effect of this oversight places coastal second class cities at a disadvantage as they pursue economic development along their waterfront.

Those second class cities who are proactively involved in waterfront development must negotiate with the State of Alaska, Division of Lands for permits or leases which often take as much as a year to process, are subject to bureaucratic requirements which lack the flexibility required in diverse local government, and which impose financial and legal obligations on local governments which are often untenable.

Research into the legislative history of this issue reveal no reason why second class cities were left out of the conveyance authorization nor the reason for the incorporation deadline date of April 1, 1964.

Primary Changes in the Law

Changes simply include second class cities as eligible for conveyance of tidelands and makes appropriate grammatical changes in the process.

It allows the director of the division of lands the discretion to quitclaim land to a municipality to correct past errors and omissions.

Alaska State Legislature

REPRESENTATIVE
JERRY MACKIE



ALASKA STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-4925

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CRAIG, ALASKA 99921
(907) 926-3008 OFFICE
(907) 826-2930 HOME

House of Representatives

CO-SPONSOR STATEMENT

ON

SSHB 398

I am cosponsoring SSHB 398 to correct a long standing land ownership problem in Skagway. Fifty years ago a dike was constructed along the Skagway River to protect the town from flooding. Over the years, the area between the original river bank and the dike has been reclaimed and subdivided by the city with lots sold and built upon (see attached map). Even the high school is located in the area.

The problem is that the city did not have clear title to this land from the start. Hence, the title for subsequent private property owners is also clouded. Not only are the owners' investments and improvements at risk, but bank financing for further improvements or sales is foreclosed.

In the past several years, the city and the Department of Natural Resources have unsuccessfully sought an administrative remedy for the problem. While current statute allows DNR administrative discretion in resolving land ownership errors and omissions for individual citizens [AS 38.05.035 (b)(2) and (b)(3)], there is no similar provision for errors and omissions of a municipality.

SSHB 398 would add such a provision. The new proposed subsection, AS 35.05.035 (b)(11), allows the director of the division of lands the discretion to quitclaim land to a municipality to correct past errors and omissions. The director may also set any terms or conditions that is deemed appropriate for the transaction. Furthermore, land title transferred to a municipality in this manner is counted against the municipality's general land grant entitlement from the state.

Section 3 provides a January 1, 1998 repeal of (b)(11). Thus the opportunity to correct municipal land ownership errors is limited to a three and one-half year period.

CITY OF SKAGWAY

GATEWAY TO THE GOLD RUSH OF "98"
P. O. BOX 415 SKAGWAY, ALASKA 99840
(PHONE) 907-983-2297
(FAX) 907-983-2151

January 13, 1994

Representative Jerry Mackie
Room 602, Court
State Capitol
Juneau 99801-1182

Dear Jerry,

I would like to take this opportunity to request your assistance in supporting legislation which would correct a land use problem in Skagway.

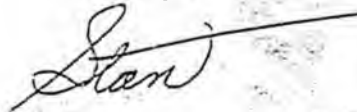
The details of the situation focus on a section of the community which was flooded by the Skagway River on a regular basis then protected by the construction of a dike approximately 50 years ago. The newly dried out land was subdivided as an extension of the existing street and lot grid and sold or used for community purposes.

The problem that has resulted today from these earlier efforts involves reluctance on the part of a title insurance company to provide coverage on a lot in the reclaimed zone.

Dave Gray has been working diligently with the city in arriving at a solution to this problem that will serve all parties well.

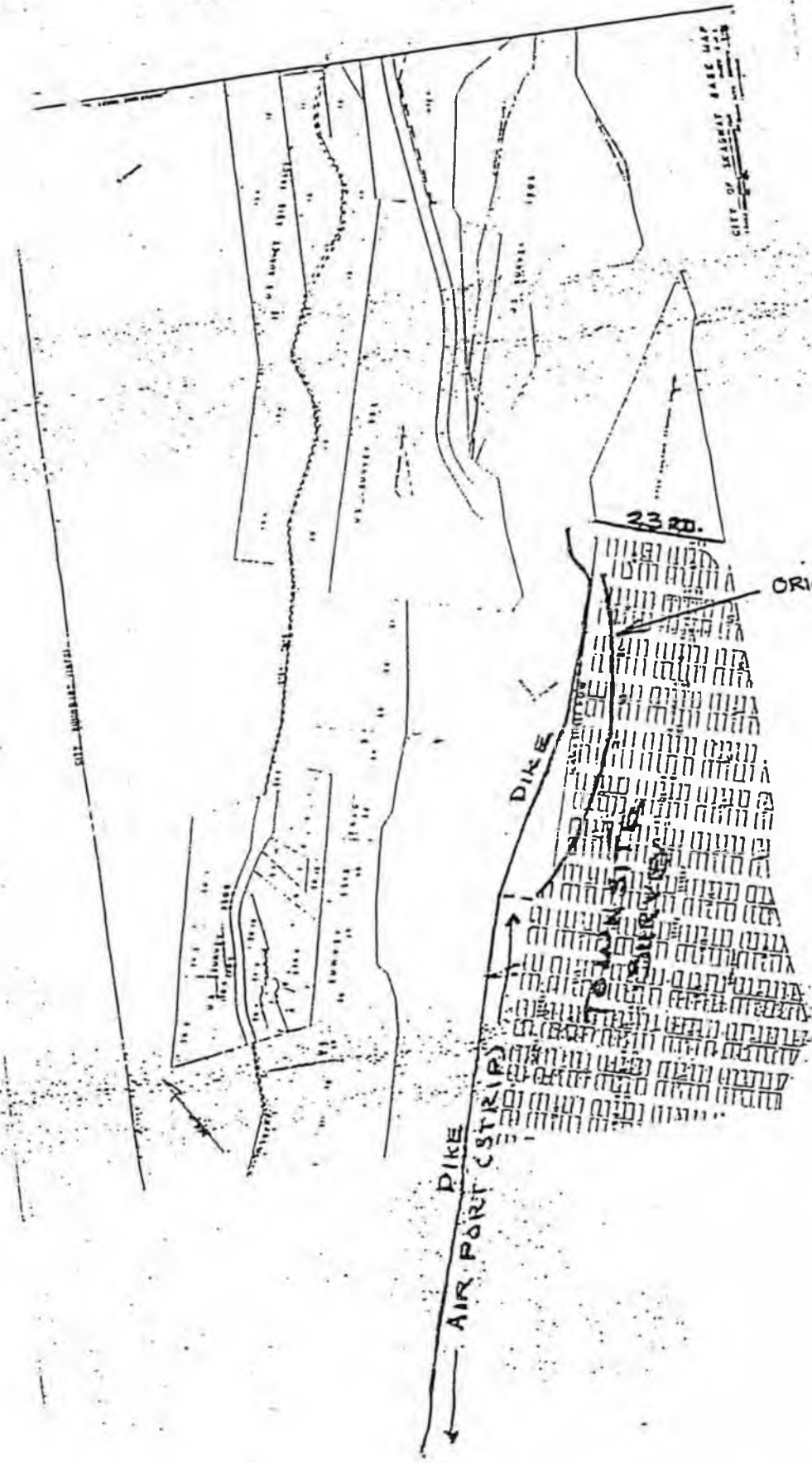
Your support will help bring resolution to a problem which cannot be solved in another way. Thank you for your help on this issue and I look forward to working with you on other matters of state or local concern.

Sincerely,



Stan Seimer
Mayor

cc: City-Manager



CITY OF SEASWAT BASE MAP
SCALE 1" = 100'

23 RD.

ORIG. MEANDER

DIKE

DIKE
AIR PORT STRIP

STANLEY
STREET

STATE OF ALASKA
DEPARTMENT OF COMMUNITY
& REGIONAL AFFAIRS

POSITION PAPER

Bill No.: CS HB 398(CRA) DCRA FN: Zero
Sponsor: Representative Olberg Position: Support

Title: An Act relating to rights in certain tide and submerged land.

Effects of the Bill

Section 1 permits the Director of the Division of Lands of the Department of Natural Resources (DNR) to quitclaim land "to a Municipality to correct errors or omissions of the municipality when inequitable detriment would result to a person due to that person's reliance on the errors or omission of the municipality... " Such conveyances are counted against any entitlement of the municipality under AS 29.65. Section 3 of the bill repeals this provision effective January 1, 1998.

Section 2 requires DNR to convey to a municipality tide or submerged land requested by a municipality that is "occupied or suitable for occupation and development" if four conditions are met. The four conditions relate to (1) lack of unreasonable interference or public access resulting for the proposed use of the land; (2) application for conveyance by the municipality; (3) compatibility of the proposed use and the land classification or land use plan for the area; and (4) need for the land for development. Land conveyed under the bill is subject to the public trust doctrine. Title to land conveyed under the bill would revert to the State if the municipality is dissolved. Conveyances of land under the bill would not affect the general land grant entitlement of a municipality provided by AS 29.65.

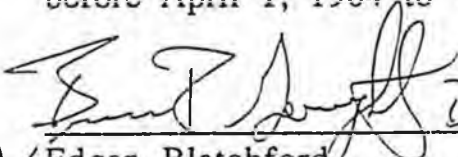
Comments

Except as noted, the Department of Community and Regional Affairs (DCRA) supports CS HB 398 (CRA) with the understanding that DNR has determined that the bill contains appropriate safeguards to preclude unwarranted, wholesale conveyance of tidelands and submerged lands. However, DCRA notes that the bill places no restriction on the relationship between the land to be conveyed and the municipality. Therefore, DCRA recommends that the bill be amended to require that the land to be conveyed be within or adjoining the boundaries of

DCRA Position Paper
CS HB 398(CRA)
Page 2
February 15, 1994

the municipality. Further, DCRA recommends that provisions be included to address competing requests for conveyance of land from a borough and a city within the borough.

Generally however, DCRA believes that the bill will promote economic development. In particular, it will benefit second class cities, unincorporated communities within organized boroughs, organized boroughs, and home rule and first class cities incorporated after April 1, 1964. The bill leaves in place AS 38.05.820(b) which entitles home rule and first class cities incorporated on or before April 1, 1964 to "all land seaward" of those cities.


DEPUTY Commissioner Feb 15, 1994
for Edgar Blatchford Date
Commissioner

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB398(CRA)

Revision Date: 11-Feb-94 Dept Affected: Natural Resources
 Title: "An Act relating to conveyance of land to BRU: Resource Development
certain municipalities . . ." Component: Land Development
 Sponsor: Rep. Olberg
 Requestor: House Resources Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ _____

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Ron Swanson Phone: 762-2692
 Division: Land Date: 11-Feb-94
 Approved by Commissioner: Harry A. Noah Date: 11-Feb-94
 Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

With the committee (House Community and Regional Affairs) substitute bill being adopted the fiscal impact to DNR is reduced. The bill now states that conveyances to municipalities will only occur where there is an existing lease, the land is classified for waterfront development and a project is planned. Thus, the amount of acreage that will be conveyed has been greatly reduced from the original bill that would have conveyed all tidelands and submerged land to certain municipalities within their boundaries.

Existing staff, that is presently issuing or maintaining leases on tidelands and shore lands, will be used instead for issuing these conveyances.

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB398(RES)

1994 LEGISLATIVE SESSION

Revision Date: 23-Feb-94 Dept Affected: Natural Resources
 Title: "An Act relating to conveyance of certain land
to municipalities." BRU: Resource Development
 Sponsor: Representative Olberg Component: Land Development
 Requestor: House Resources Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ None

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

There is no change in the fiscal analysis of the Resource Committee substitute for this bill.

Prepared by: Ron Swanson, Director Phone: 762-2692
 Division: Land Date: 23-Feb-94
 Approved by Commissioner: Harry A. Noah Date: 23-Feb-94
 Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Analysis of Bill/Program Effects:

In addition to the general grant land entitlements under AS 29.65, qualified cities within Alaska have been conveyed tide and submerged land. To understand the purpose of these conveyances of public trust land it is necessary to review federal mandates for management of tide and submerged land prior to Alaska's admission into the Union.

In 1898 Congress passed an act extending the homestead laws to the District of Alaska. The act declared that "all such rights to [tide lands and beds of any navigable waters] shall continue to be held by the United States in trust for the people of any state or states which may hereafter be erected out of said District [Alaska]."

Thus territorial tidelands constituted a federal trust early in Alaska's history and as such could not be disposed of through lease or sale. Additionally, permanent improvements were not authorized to be constructed upon tide and submerged land.

The importance of improved tidelands to the vitality of the territory's economy and the health of its people is readily apparent. It was a territory whose economy, mobility and recreation were intimately tied to the sea. Log transfer facilities, seafood processors, municipal docks, private boat ways and even residences were partially or wholly constructed on tidelands with no method for individuals or businesses to acquire proper authorization for use. The need for these activities was readily recognized by the federal managers. However, the mechanism for authorizing such use was non-existent.

In full recognition of these shortcomings, Congress enacted a law on September 7, 1957 (P.L. 85-303), that conveyed tidelands adjacent surveyed townsites to the territory. The conveyance was for tidelands and all improvements and natural resources between the line of mean high tide and the pierhead line. The pierhead line was defined as a "line parallel to the existing line of mean low tide at such distance offshore from the line of mean low tide that encompasses to the landward all stationary, manmade structures in existence as of February 1, 1957". Under this law acceptance by the Secretary of Interior of new townsite surveys effected conveyances of attendant tidelands to the territory.

The act authorized the territory to manage and dispose of any tract of tidelands acquired under the act for municipal, business, residential or other beneficial purposes. A tidelands occupant or the occupant's successor in interest had a preference right to acquire an improved tract if a disposal occurred. These improved tracts could be conveyed to the incorporated town or school district. However, if this occurred, the town or school district must accord any occupant a preference right in any disposals contemplated in the future.

The Army Corps of Engineers was given the authority to establish pierhead lines for all surveyed townsites to enable conveyances to the territory. This process was initiated soon after passage of the act. Alaska's statehood interrupted this process with the conveyance of all tide and submerged land under section 6(m) of the statehood act to the new state.

The Alaska Legislature incorporated specific language in the Alaska Land Act to recognize and implement the provisions of the September 7, 1957, federal law. AS 38.05.320(b) provided:

- 1) The corporation must have been incorporated on or before January 3, 1959;
- 2) Tidelands subject to conveyance lay between the mean high tide line and the pierhead line, the harbor line or in their absence, a line subject to the approval of the director;
- 3) The corporation had to prepare a plat of the area conveyed showing all structures and improvements thereon and each tract that was occupied or developed with the owner or claimant noted; and,
- 4) The corporation had to recognize preference rights for occupied and developed tracts.

The tidelands conveyances to municipal corporations were mandatory and gave the department few discretionary powers over the process.

In 1964 (ch 81, SLA 1964) "municipal corporation" was changed to "(h)ome rule cities and cities of the first class"

Incorporated on or before April 1, 1964.

Following is a current list of Alaska's home rule, first class and second class cities that would qualify under this bill.

Home Rule

*Cordova
*Kenai
*Ketchikan
*Kodiak
*Petersburg
*Seward
*Valdez
*Wrangell

First Class

*Barrow
*Craig
Dillingham
*Haines
*Homer
*Hoonah
*Hydaburg
*Kake
*King Cove
*Klawock
*Nome
*Palican
Sand Point
*Seldovia
*Skagway
Soldotna
Unalaska

Second Class

Akhlok
Akutan
Angoon
Atka
Bethel
Brevig Mission
Chignik
Clark's Point
Collman Cove
Cold Bay
Deering
Diomedes
Ellm
False Pass
Gambell
Golovin
Goodnews Bay
Hooper Bay
Kachemak
Kaktovik
Kasaan
Kivalina
*Kotzebue
Kupreanof
Larsen Bay
Mokoryuk
Nightmute
Old Harbor
Ouzinkie
Pilot Point
Platinum
Point Hope
Port Alexander
Port Heiden
Port Lyons
Quinhagak
Saint George
Saint Michael
Saint Paul
Savoonga
*Saxman
Scammon Bay
Shaktotik
Sheldon Point
Shishmaref
Stebbins
Teller
*Tenakee Springs
Thorne Bay
Togiak
Tooksook Bay
Unalakleet
Walnwright
Wales
Whittier

*home rule and first class cities as April 1, 1964 that received tidelands previously

It should be pointed out that a mechanism already exists that allows cities to develop state-owned tidelands for local purposes. AS 38.05.810 allows cities to lease tidelands. If the city's use of the tidelands is for public purposes, lease rental is at less than fair market value; if for a private purpose, rental is at fair market value. Ownership is not necessary to fulfill local needs for use of tidelands. We have met all municipal needs to date using this statutory authority.

Amendments Proposed:

The public trust doctrine holds that there are inextinguishable real property interests held by the public in tidelands. The state, as principle trustee for tidelands, must ensure that these public rights continue when a tideland property interest is created. Property interests could be limited, a private tideland lease, or could be broad, a conveyance to a city. Because of the public trust doctrine the state is prohibited from conveying tidelands to private parties, except under very limited historic circumstances where use and occupancy preceded statehood. There is, however, no such limitation on cities for tracts of tidelands that they have been conveyed under AS 38.05.820. The public's rights under the public trust doctrine must be protected in conveyances to a city.

If conveyance does occur, public rights must be protected through a reversionary interest retained by the state if the public trust is breached.

Municipal dissolutions are a trend that is apparently increasing. If a municipal government chooses to dissolve, the state must have the authority to recover title in order to protect the public trust.

Any conveyances should be limited to existing or proposed public or development projects.

Another amendment is needed stating that tide and submerged lands cannot be used to increase and municipalities land entitlement under AS 29.65. Any conveyances, however, should be charged against a municipalities AS 29.65 land entitlement.



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325. Fax (907) 463-5480

January 31, 1994

TO: Representative Harley Olberg, Chair
and Members
House Committee on Community & Regional Affairs

FROM: Kent E. Swisher, Executive Director

RE: **HB 398 - Rights in certain tide and submerged land**

The Alaska Municipal League supports HB 398, which would allow all Alaskan cities the right to select and receive title to state-owned tide and submerged lands within their municipal boundaries. In November 1993, AML's members discussed this issue and passed Resolution 94-10 (copy enclosed) supporting the concept included in HB 398.

Present statutes limit the ability of municipalities to obtain ownership to tide and submerged lands within their boundaries, yet often these lands are among the most valuable for economic development purposes. AML and its members support making such lands available to all municipalities, as part of their municipal entitlement to state-owned land.

Enclosure

LEG94.hb398.131

Resolution of the Alaska Municipal League

Resolution No. 94-10

**A RESOLUTION AUTHORIZING THE SELECTION AND
CONVEYANCE OF STATE TIDE AND SUBMERGED LANDS
TO CITIES AND BOROUGHES IN ALASKA**

WHEREAS, pursuant to the Alaska Statehood Act, the State of Alaska received title to most of the tidelands offshore of the state land boundary, from the mean high tide to the three-mile limit; and

WHEREAS, current provisions of Alaska Statutes have authorized the conveyance of state-owned tide and submerged lands to a limited number of Alaska's communities, i.e., Home Rule and First Class Cities incorporated on or before April 1, 1964; and

WHEREAS, it is the policy of the Department of Natural Resources (DNR) to lease tidelands to municipalities only at full value if the municipality will be making what DNR believes is a commercial use of the tidelands; and

WHEREAS, boroughs never qualified for tidelands under the Tide and Submerged Lands Act; and

WHEREAS, DNR will not allow for municipal selection of tidelands under a municipality's land entitlement; and

WHEREAS, limitations on the ability of municipalities to obtain ownership to tide and submerged lands within their boundaries are arbitrary, unnecessary, and unreasonable and should be eliminated in order to enhance the economic future of all of Alaska's communities:

NOW, THEREFORE, BE IT RESOLVED by the Alaska Municipal League that the Alaska Legislature is respectfully encouraged to repeal the provisions of AS 38.05.820(b) as they limit the ability of Second Class Cities and Home Rule and First Class Cities incorporated after April 1, 1964, to obtain title from the state to tide and submerged lands within their municipal boundaries, notwithstanding a prior fulfillment of the municipality's land entitlement.

BE IT FURTHER RESOLVED the State of Alaska is urged to convey to each municipality all tidelands currently leased to the municipality and to convey tidelands to a municipality for which it has a lease application pending.

BE IT FURTHER RESOLVED the State of Alaska is urged to permit each borough to take up to 20 percent of its land entitlement in tidelands.


BE IT FURTHER RESOLVED that the Alaska Legislature is urged to take such action as may be necessary to implement the foregoing.

BE IT FURTHER RESOLVED that tidelands made available to municipalities shall include tidelands currently leased or permitted to third parties, subject to such leases or permits.

Adopted this 12th day of November 1993 in Soldotna, Alaska.


Rosalee T. Walker
Rosalee T. Walker, President

ATTEST:


Kent E. Swisher, Executive Director



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325, Fax (907) 463-5480

February 23, 1994

TO: Representative Bill Williams, Chair
and Members
House Resources Committee

FROM: Kent E. Swisher, Executive Director

RE: **CS HB 398 (CRA) - Conveyance of certain lands to municipalities**

The Alaska Municipal League supports CS HB 398 (CRA), which would allow the Department of Lands to transfer title to state-owned tide and submerged lands within municipal boundaries to municipalities for certain purposes. In November 1993, AML's members discussed this issue and passed Resolution 94-10 (copy enclosed) supporting the concept included in HB 398.

Present statutes limit the ability of municipalities to obtain ownership to tide and submerged lands within their boundaries, yet often these lands are among the most valuable for economic development purposes. AML and its members support making such lands available to all municipalities, as part of their municipal entitlement to state-owned land.

CS HB 398 (CRA) is the result of a cooperative effort by the Division of Lands, the Department of Community and Regional Affairs, and affected municipalities to develop a compromise position that will best serve the public interest. It appears to be a "win-win" situation for all. The CS would allow municipalities to receive title to the tidelands or submerged lands required for improvements or developments approved by the municipality, thus facilitating much-needed economic development projects in coastal communities; protect the public trust by ensuring that the proposed use of the lands is compatible with land use plans adopted by the municipality, the Department of Natural Resources, or the Coastal Policy Council and that lands will be returned to the state in case of the dissolution of a municipality; and, by removing DNR's burden of administering leases for the affected lands, save money for the state.

AML supports **CS HB 398 (CRA)** and urges the committee's support.

Enclosure

LEG94.cshb398.223

Resolution of the Alaska Municipal League

Resolution No. 94-10

**A RESOLUTION AUTHORIZING THE SELECTION AND
CONVEYANCE OF STATE TIDE AND SUBMERGED LANDS
TO CITIES AND BOROUGHES IN ALASKA**

WHEREAS, pursuant to the Alaska Statehood Act, the State of Alaska received title to most of the tidelands offshore of the state land boundary, from the mean high tide to the three-mile limit; and

WHEREAS, current provisions of Alaska Statutes have authorized the conveyance of state-owned tide and submerged lands to a limited number of Alaska's communities, i.e., Home Rule and First Class Cities incorporated on or before April 1, 1964; and

WHEREAS, it is the policy of the Department of Natural Resources (DNR) to lease tidelands to municipalities only at full value if the municipality will be making what DNR believes is a commercial use of the tidelands; and

WHEREAS, boroughs never qualified for tidelands under the Tide and Submerged Lands Act; and

WHEREAS, DNR will not allow for municipal selection of tidelands under a municipality's land entitlement; and

WHEREAS, limitations on the ability of municipalities to obtain ownership to tide and submerged lands within their boundaries are arbitrary, unnecessary, and unreasonable and should be eliminated in order to enhance the economic future of all of Alaska's communities:

NOW, THEREFORE, BE IT RESOLVED by the Alaska Municipal League that the Alaska Legislature is respectfully encouraged to repeal the provisions of AS 38.05.820(b) as they limit the ability of Second Class Cities and Home Rule and First Class Cities incorporated after April 1, 1964, to obtain title from the state to tide and submerged lands within their municipal boundaries, notwithstanding a prior fulfillment of the municipality's land entitlement.

BE IT FURTHER RESOLVED the State of Alaska is urged to convey to each municipality all tidelands currently leased to the municipality and to convey tidelands to a municipality for which it has a lease application pending.

BE IT FURTHER RESOLVED the State of Alaska is urged to permit each borough to take up to 20 percent of its land entitlement in tidelands.


BE IT FURTHER RESOLVED that the Alaska Legislature is urged to take such action as may be necessary to implement the foregoing.

BE IT FURTHER RESOLVED that tidelands made available to municipalities shall include tidelands currently leased or permitted to third parties, subject to such leases or permits.

Adopted this 12th day of November 1993 in Soldotna, Alaska.


Rosalee T. Walker
Rosalee T. Walker, President

ATTEST:


Kent E. Swisher, Executive Director



HOUSE RESOURCES COMMITTEE

DATE: 2/23/94

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
 HB 398 - Rights to certain tide + submerged land
 HJR 55 - Economic Importance of S.E. Timber Harvests
 HJR 56 - Exempt Alaska From "PROFISH" Regs.
 HB 199 - Oil + Gas Exploration Leases

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Chip Thomas ✓	self	Juneau 2 Murray Way 99801				(Y) N	HJR 55 + 56
Rollo Pool ✓	AK Pulp Corp.	Sitka 4600 Saw Mill Chalk Rd. 99835			747-2293	(Y) N	HJR 55 + 56
John Sisk ✓	self	Juneau		586-2544		(Y) N	HJR 55 + 56
Crystal Smith	AML	217 2nd St, Suite 200			67325	(Y) (N)	if possible HB 328
Chuck Ashby ✓	Juneau Chamber of Commerce	124 W Fifth St Juneau			66420	(Y) N	HJR 55 - 56
Dave Katz ✓	SEACC	419 Sixth St. #328 Juneau	99801		586-6942	(Y) N	HJR 55-56
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

TCN: 40363 DATE & TIME: 02/23/94 08:15 TO 10:00 STATUS:6 ADJOURNED

**** ORDER SUMMARY ****

SPONSOR: HRES HOUSE RESOURCES CHAIRS: WILLIAMS
PURPOSE: PUB PUBLIC HEARING LEGISLATIVE
CONTACT: MARY MCDOWELL TEL#: (907)465-3715
CHAIRING SITE: JUNEAU CAPITOL CAP124

SPONSOR REMARKS(PUB): TESTIMONY:Y ALLOWED 99 MINUTE LIMIT
OTHER SITES MAY ADD IF THERE IS INTEREST
TCN REQUESTED ON 02/23/94 AND HAS 4 UPDATES

**** AGENDA ****

- 1 HB 199 OIL & GAS EXPLORATION LICENSES/LEASES
- 2 HB 398 LAND CONVEYED TO & FROM MUNICIPALITIES
- 3 HJR 55 TONGASS NATIONAL FORST TIMBER HARVESTS
- 4 HJR 56 EXEMPT ALASKA FROM "PACFISH" REGS

**** PARTICIPATING LIOS ****

ANC ANCHORAGE	716 W 4TH. #200	LOCATION STAFF
FBX FAIRBANKS	119 N CUSHMAN ST	LOCATION STAFF
HOM HOMER LTC	126 W PIONEER #4	LOCATION STAFF
* JNU JUNEAU	CAPITOL CAP124	LOCATION STAFF
KOD KODIAK	112 MILL BAY RD.	LOCATION STAFF
KTN KETCHIKAN	352 FRONT STREET	LOCATION STAFF
SIT SITKA	210 LAKE STREET	LOCATION STAFF

**** VOLUNTEER & OFFNET SITES ****

ZZZ OF1 OFFNET 1 ANCHORAGE RON SWANSON (999)999-9999

PARTICIPANTS IN: ANCHORAGE

ANC

1	GARY WILLIAMS	WHITTIER	TSFY. HB 398
	PO BOX 608	WHITTIER	AK 99693 (907)472-2337
2	BOB JUETTNER	ALEUTIANS EAST	TSFY. HB 398
	1600 A ST. NO 103	ANCHORAGE	AK 99501 (907)274-7559
3	KEN ROYD	DNR O&G	UNABL HB 199
	3301 C ST	ANCHORAGE	AK 99501 (907)762-2548
4	LEE SHARP	ALEUTIAN E	TSFY. HB 199
	420 L STREET	ANCHORAGE	AK 99501 (907)276-1969
5	STEVE BORELL	AK MINERS	TSFY. HJR 56
	501 W NORTHERN LTS	ANCHORAGE	AK 99516 (907)276-0347
6	ARDIE GRAY		UNABL HB 199
	121 W FIREWEED STE 207	ANCHORAGE	AK 99503 (907)272-1481
7	JOHN STURGEON	KONCOR FOREST	TSFY. HJR 56
	3501 DENALI STE 202	ANCHORAGE	AK 99516 (907)562-3335
8	JIM BARNETT	ATTY WHITTIER	UNABL HB 398
	10050 PROSPECT DR	ANCHORAGE	AK 99516 (907)346-2755

PARTICIPANTS IN: FAIRBANKS

FBX

1 MR.	GREGORY GARRELS		UNABL HB 199
	1174 BROADVIEW DR.	FAIRBANKS	AK 99712 (907)457-3543
2 MR.	CLIFF BURGLIN		UNABL HB 199
	17 ADAK AVE.	FAIRBANKS	AK 99701 (907)452-5140

PARTICIPANTS IN: HOMER LTC

HOM

1 MS GAIL PARSONS UNABL HB 199

TCN: 40363 DATE & TIME: 02/23/94 08:15 TO 10:00 STATUS:6 ADJOURNED

PARTICIPANTS IN: HOMER LTC

HOM

2 MR.	LARRY SMITH	HOMER	AK 99603 (907)235-3978
	PO BOX 2397		TSFY. HJR 55
3 MR.	STEVE GIBSON	FRITZ CREEK	AK 99603 (907)235-3855
	1622 HIGHLAND DR.	HOMER	UNABL HB 199
			AK 99603 (907)235-6487

PARTICIPANTS IN: JUNEAU

JNU

1 REP.	BILL WILLIAMS		TSFY. HB 199
		AK	(907)000-0000
2 REP.	CON BUNDE		TSFY. HB 199
		AK	(907)000-0000
3 REP.	ELDON MULDER		TSFY. HB 199
		AK	(907)000-0000
4 REP.	JOHN DAVIES		TSFY. HB 199
		AK	(907)000-0000
5 REP.	DAVID FINKELSTIEN		TSFY. HB 199
		AK	(907)000-0000
6 REP.	JEANETTE JAMES		TSFY. HB 199
		AK	(907)000-0000
7 REP.	PAT CARNEY		TSFY. HB 199
		AK	(907)000-0000
8 REP.	JOE GREENE		TSFY. HB 199
		AK	(907)000-0000
9 REP.	BILL HUDSON		TSFY. HB 199
		AK	(907)000-0000
10 REP.	HARLEY OLBERG		TSFY. HB 199
		AK	(907)000-0000
11	TO TESTIFY		TSFY. ALL ITEMS
12	TO TESTIFY		TSFY. ALL ITEMS
13	TO TESTIFY		TSFY. ALL ITEMS
14	TO TESTIFY		TSFY. ALL ITEMS

PARTICIPANTS IN: KODIAK

KOD

1 MR.	BUD CASIDY	KOD. IS BOROUGH	UNABL HB 398
	710 MILL BAY RD.	KODIAK	AK 99615 (907)486-9302

PARTICIPANTS IN: KETCHIKAN

KTN

1 MR	TROY REINHART	AK FOREST ASSOC	TSFY. HJR 55
	111 STEDMAN # 200	KETCHIKAN	AK 99901 (907)225-6114

PARTICIPANTS IN: SITKA

SIT

1 MR.	JOEL KAWAHARA		TSFY. HJR 55
	507 KATLIAN ST.	SITKA	AK 99835 (907)747-5811
2 MR.	ERIC JORDAN		TSFY. HJR 56
	103 GIBSON PL.	SITKA	AK 99835 (907)747-6743

PARTICIPANTS IN: OFFNET 1

ZZZ OF1

1	RON SWANSON	DNR	TSFY. HB 199
		AK	(907)000-0000

HB

404



Representative Lyman F. Hoffman

Alaska State House
State Capitol • Juneau, Alaska 99801-1182 • (907) 465-4453

DISTRICT 39

- AKIACHAK
AKIAK
ALEKNAGIK
ATMAUTLUAK
BETHEL
CHEFORNAK
CLARKS POINT
DILLINGHAM
EEK
EKUK
GOODNEWS BAY
KASIGLUK
KIPNUK
KONGIGANAK
KWETHLUK
KWIGILLINGOK
MANOKOTAK
NAPAKIAK
NAPASKIAK
NUNAPITCHUK
OSCARVILLE
PLATINUM
PORTAGE CREEK
QUINHAGAK
TOGIAK
TUNTUTULIAK
TWIN HILLS

TO: Representative Bill Williams, Chairman
House Resources Committee

FROM: Representative Lyman Hoffman
Prime Sponsor

RE: HB 404 - An Act relating to the authority of the
commissioner of natural resources to reconvey,
or relinquish an interest in, land to the United
States if that land or interest being reconveyed
or relinquished is identified in an amended application
for a land allotment under federal law and the original
claim for an allotment described land that is now
within, or managed as a unit of, the state park system.

DATE: March 7, 1994

Mr. Chairman, thank you for taking up HB 404.

Recently there has been considerable focus by the state Department
of Natural Resources regarding the changes to Title 38 of the Alaska
Statutes. One component of this exercise is a technical change
allowing the State of Alaska to reconvey land to the Bureau of Land
Management. This change should expedite relocation of allotments in
state parks.

It has come to my attention, through the Bristol Bay Native
Corporation and the Bristol Bay Native Association, that efforts to
rectify this transfer situation have ground to a standstill. More than
100 applications have recently celebrated their 20th anniversary on
BLM's shelves and it would seem, without HB 404, there is no end to
the wait in sight. The time is long past for correcting this situation.

Thank you for your consideration.

authorized to modify any such contract, with the consent of the purchaser, by substituting, to the extent practicable, timber on other national forest lands approximately equal in volume, species, grade, and accessibility for timber standing on any land affected by such conveyances, and, on request of the appropriate Village Corporation the Secretary of Agriculture is directed to make such substitution to the extent it is permitted by the timber sale contract without the consent of the purchaser.

(b) No land conveyed to a Native Corporation pursuant to this Act or by operation of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyances to all of the land to which it is entitled to receive under the appropriate section or subsection of this Act, for which the land was withdrawn or selected, no land in such a contingency area that has been withdrawn and selected, or selected, by such Corporation under this Act shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term "contingency area" means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract.

(As amended Dec. 2, 1980, P. L. 96-487, Title IX, § 908, 94 Stat. 2447.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1980. Act Dec. 2, 1980 designated the existing provisions as subsec. (a), and added subsec. (b).

§ 1616. Joint Federal-State Land Use Planning Commission for Alaska

INTERPRETIVE NOTES AND DECISIONS

1. Public easements [43 USCS § 1616(b)]

Recreational users of land subject to conveyances to Native village under Alaska Native Claims Settlement Act (43 USCS §§ 1601 et seq.) have standing to challenge Department of Interior action in certifying area as Native village entitled to conveyance of public lands under Act, since recreational use is within zone of interest protected by provision of § 1616(b) requiring retention of public access easements in lands removed from public domain under Act. *Stratman v Watt* (1981, CA9 Alaska) 656 F2d 1321.

Existence of highway right-of-way in favor of state neither precludes conveyance by Bureau of Land Management under Alaska Native Claims Settlement Act (43 USCS §§ 1601 et seq.) of subject land in fee nor reservation of overlapping public easement, as reservation and conveyance are subject to previously existing right-of-way interest, but decision of BLM to convey and conveyance document must identify right-of-way and declare that conveyance and reserved public easement are subject to state's right-of-way, if valid. *State of Alaska, Dept. of Transp. & Public Facilities* (1981) 88 ID 629.

Standing to appeal decision of Bureau of Land Management as to public easement decision made pursuant to 43 USCS § 1616(b)(1) requires that appellant claim property interest within meaning of 43 CFR 4.902, and said property interest is satisfactory when consisting of valid existing right to which conveyance of lands under Alaska Native Claims Settlement Act is subject pursuant to 43 USCS § 1613(g), and additionally, appellant must further assert that appealed decision affects that property interest by failing to provide access to public lands. *Ray DeVilbiss (Wolverine Grazers Asso.)* (1982) 89 ID 9.

Since purpose of 43 USCS § 1616(b)(1) public easement is to provide access across Native lands to lands not selected, such easement necessarily affects lands other than those to be conveyed; therefore, member of public who claims private interest in land other than land to be conveyed, in asserting standing to appeal § 1616(b)(1) easement decision, can rely on this private holding as his or her "property interest" affected within meaning of 43 CFR 4.902. *Ervin K. Terry* (1982) 89 ID 242.

§ 1617. Indian allotment authority in Alaska; revocation; charging allotments on pending application against statutory acreage grant

(a)-(b) [Unchanged]

(c)(1)(A) Notwithstanding any other provision of law, an allotment applicant, who had a valid application pending before the Department of the Interior on December 18, 1971, and whose application remains pending as of the date of enactment of this subsection [enacted Oct. 14, 1992], may amend the land description in the application of the applicant (with the advice and approval of the responsible officer of the Bureau of Indian Affairs) to describe land other than the land that the applicant originally intended to claim if—

(i) the application pending before the Department, either describes land selected by, tentatively approved to, or patented to the State of Alaska or otherwise conflicts with an interest in land granted to the State of Alaska by the United States prior to the filing of the allotment application;

(ii) the amended land description describes land selected by, tentatively approved to,

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Amendments
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[43 USCS § 9]

purchaser, by substituting, to approximately equal in volume, affected by such conveyances. Secretary of Agriculture is directed under sale contract without the

is Act or by operation of the within a contingency area thereafter be subject to such tive Corporation has received under the appropriate section or selected, no land in such a d, by such Corporation under r shall be cut thereon, except ection, the term "contingency area from which the timber ed in the contract cannot be ing in the contract.

(2447.)

DIRECTIVES

ec. (a), and added subsec.

f Alaska

NOTES

real decision of Bureau of Land public easement decision made SCS § 1616(b)(1) requires that property interest within meaning of said property interest is satisfactg of valid existing right to which is under Alaska Native Claims subject pursuant to 43 USCS tionally, appellant must further d decision affects that property o provide access to public lands. (Verne Grazers Assn.) (1982) 89

f 43 USCS § 1616(b)(1) public de access across Native lands to such easement necessarily affects those to be conveyed; therefore, who claims private interest in nd to be conveyed, in asserting § 1616(b)(1) easement decision, private holding as his or her affected within meaning of 43 K. Terry (1982) 89 ID 242.

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t applicant, who had a valid on December 18, 1971, and nt of this subsection [enacted eation of the applicant (with Bureau of Indian Affairs) to ly intended to claim if—

r describes land selected by, a or otherwise conflicts with e United States prior to the

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or patented to the State of Alaska of approximately equal acreage in substitution for the land described in the original application; and

(iii) the Commissioner of the Department of Natural Resources for the State of Alaska, acting under the authority of State law, has agreed to reconvey or relinquish to the United States the land, or interest in land, described in the amended application.

(B) If an application pending before the Department of the Interior as described in subparagraph (A) describes land selected by, but not tentatively approved to or patented to, the State of Alaska, the concurrence of the Secretary of the Interior shall be required in order for an application to proceed under this section.

(2)(A) The Secretary shall accept reconveyance or relinquishment from the State of Alaska of the land described in an amended application pursuant to paragraph (1)(A), except where the land described in the amended application is State-owned land within the boundaries of a conservation system unit as defined in the Alaska National Interest Lands Conservation Act. Upon acceptance, the Secretary shall issue a Native Allotment certificate to the applicant for the land reconveyed or relinquished by the State of Alaska to the United States.

(B) The Secretary shall adjust the computation of the acreage charged against the land entitlement of the State of Alaska to ensure that this subsection will not cause the State to receive either more or less than its full land entitlement under section 6 of the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (commonly referred to as the "Alaska Statehood Act") [43 USCS note prec § 21], and section 906 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635). If the State retains any part of the fee estate, the State shall remain charged with the acreage.

(As amended Oct. 14, 1992, P. L. 102-415, § 3, 106 Stat. 2112.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"The Alaska National Interest Lands Conservation Act", referred to in subsec. (c), is Act Dec. 2, 1980, P. L. 96-487, 94 Stat. 2371. For full classification of such Act, consult USCS Tables volumes.

Amendments:

1992, Act Oct. 14, 1992, added subsec. (c).

INTERPRETIVE NOTES AND DECISIONS

Native Alaskans whose families have used and occupied lands located inside 3 national wildlife refuges do not have right to apply for allotments of such lands, where each applicant's personal use and occupancy commenced after land ceased to be vacant, unappropriated, and unreserved. *Akootook v United States*, Dept. of Interior (1984, CA9 Alaska) 747 F2d 1316.

Alaska Natives applying for allotment within national forest under 1906 Alaskan Native Allotment Act must establish personal use and occupancy of land prior to establishment of forest. *Shields v United States* (1981, DC Alaska) 504 F Supp 1216.

Alaskan native's allotment is land held in trust

for an Indian under 30 USCS § 185, and therefore excluded from United States land subject to grant of right of way under Trans-Alaska Pipeline Act (43 USCS § 1652); native allotment application filed in 1971 has priority over pipeline application filed in 1969 because vested native preference relates back to initiation of occupancy; apparent United States approval of right-of-way agreement was by unauthorized official, and government is not estopped to deny approval; pipeline company and state will be awarded title to improvements, but holders of native allotment claim may be entitled to damages. *Alaska v 13.90 Acres of Land* (1985, DC Alaska) 625 F Supp 1315.

§ 1618. Reservations; revocation; excepted reserve; acquisition of title to surface and subsurface estates in reserve; election of Village Corporations

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Other provisions:

Supplemental appropriation for Native Groups. Act Dec. 2, 1980, P. L. 96-487, Title XIV, Part B, 94 Stat. 2498, provided: "The Secretary shall pay by grant to each of the Native Group Corporations established pursuant to section 14(h)(2) of the Alaska Native Claims Settlement Act [43 USCS § 1613(h)(2)] and finally certified as a Native Group, an amount not more than \$100,000 or less than \$50,000 adjusted according to population of each Group. Funds authorized under this section may be used only for planning, development, and other purposes for which the Native Group Corporations are organized under the Settlement Act [43 USCS §§ 1601 et seq.]."

available, granted, or subject to being transferred to the state for any purpose;

(13) *[Repealed, § 15 ch 181 SLA 1978; § 20 ch 182 SLA 1978.]*

(14) *[Repealed, § 88 ch 152 SLA 1984.]*

(b) The director may

(1) designate the administrative duties, functions or powers imposed upon the director to a responsible employee in the division;

(2) grant preference rights for the lease or purchase of state land without competitive bid in order to correct errors or omissions of a state or federal administrative agency when inequitable detriment would otherwise result to a diligent claimant or applicant due to situations over which the claimant or applicant had no control; the exercise of this discretionary power operates only to divest the state of its title to or interests in land and may be exercised only

(A) with the express approval of the commissioner; and

(B) if the application for the preference right is filed with the director within three years from

(i) the occurrence of the error or omission;

(ii) the date of acquisition by the state of the land; or

(iii) the date of a court decision or settlement nullifying a disposal of state land;

(3) grant a preference right to a claimant who shows bona fide improvement of state land or of federal land subsequently acquired by the state and who has in good faith sought to obtain title to the land but who, through error or omission of others occurring within the three years before (A) the application for the preference right, (B) the date of acquisition by the state of the land, or (C) the date of a court decision or settlement nullifying a disposal of state land, has been denied title to it; upon a showing satisfactory to the commissioner, the claimant may lease or purchase the land at the price set on the date of original entry on the land or, if a price was not set at that time at a price determined by the director to fairly represent the value of unimproved land at the time the claim was established, but in no event less than the cost of administration including survey; the error or omission of a predecessor in interest or an agent, administrator, or executor which has clearly prejudiced the claimant may be the basis for granting a preference right;

(4) sell land by lottery for less than the appraised value when, in the judgment of the director, past scarcity of land suitable for private ownership in any particular area has resulted in unrealistic land values;

(5) when the director determines it is in the best interest of the state and will avoid injustice to a person or the heirs or devisees of a person, dispose of land, by direct negotiation to that person who presently uses and who used and made improvements to that land before January 3, 1959 or to the heirs or devisees of the person; the amount

FISCAL NOTE

STATE OF ALASKA

BILL NO. HB404

1994 LEGISLATIVE SESSION

Revision Date: Original Dept Affected: Natural Resources
 Title: "An Act relating to the authority of the BRU: Parks and Recreation Management
commissioner of natural resources to reconvey, or relinquish an..." Component: Parks Management
 Sponsor: Representative Hoffman
 Requestor: Representative Hoffman Component Serial No. 452

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ None

POSITIONS

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

ANALYSIS:

(Attach a separate page if necessary)

Existing staff assigned to the Division of Parks and Outdoor Recreation are performing the duties and public contact necessary to begin, administer, and complete the allotment application amendment process as part of their duties in managing Wood-Tikchik State Park. Allowing applicants to amend their applications for land outside of a state park will reduce public impact and speed finalization of these applications, some of which have been pending for over 30 years.

Prepared by: Neil Johannsen, Director Phone: 762-2603
 Division: Parks Date: 25-Feb-94
 Approved by Commissioner: Harry A. Noah Date: 25-Feb-94
 Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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02/07/94

LEGISLATIVE TELECONFERENCE NETWORK

PAGE 01
15:05:34

ID# 10445

DATE & TIME: 03/07/94 08:45 TO 10:00 STATUS:7 STAGE: 10

*** TOPIC SUMMARY ***

TOPIC: HPL2 CDDT RESOURCES

CHAIR: MILLER

PROPOSE: PDB PUBLIC HEARING

LEGISLATIVE

CONTACT: MARY BUCKWELL

TELE: 35071405-3715

LOCATION: STEE JUNEAU

CAPITOL

08P129

SPONSOR REQUEST (RUC): TESTIMONY ALLOWED

99 MINUTE LIMIT

TESTIMONY WILL BE TAKEN.

ITEM REQUESTED ON 03/07/94 AND HAS 17 UPDATES

*** AGENDA ***

- 1 HB 404 NATIVE ALIQUOTS IN STATE PARKS
- 2 HB 443 WASTE & USE OF SALMON HATCHERIES
- 3 HJR 17 MALDEN FISHERY CONSERV & MGT ACT
- 4 SB 77 INTENSIVE MANAGEMENT OF GAME RESOURCES
- 5 *** ORDER OF BILLS ***
- 6 HJR 17
- 7 HB 404
- 8 HB 443

*** PARTICIPATING LIOZ ***

AND ANCHORAGE	716 W 4TH, #200	LOCATION	STAFF
SAR BARROW	COURTHOUSE #305	LOCATION	STAFF
CDR CORDOVA	705 2ND STREET	LOCATION	STAFF
DJI DELTA JCT.	JARVIS CTR. #210	LOCATION	STAFF
DLG DILLINGHAM	KANGILOOTAG BLDG	LOCATION	STAFF
FBK FAIRBANKS	117 N CUSHMAN ST	LOCATION	STAFF
GLP GLENNALLEN	COMMUNITY CLR.	LOCATION	STAFF
HON HOMER LTC	126 W PIONEER #4	LOCATION	STAFF
JRU JUDGE	CAPITOL	LOCATION	STAFF
KOD KODIAK	112 MILL BAY RD.	LOCATION	STAFF
KOT KOTZEBUE	323 FRONT STREET	LOCATION	STAFF
KTD KETCHIKAN	352 FRONT STREET	LOCATION	STAFF
MAI NAISU	185 E PARKS HWY.	LOCATION	STAFF
SEU SEWARD	2001 SEWARD RD	LOCATION	STAFF
SIT SITKA	210 LAKE STREET	LOCATION	STAFF
SUL SENEZUL	34924 KALIFORSKY	LOCATION	STAFF
TOK TOK	MP 1314 AK HWY	LOCATION	STAFF
VAL VALDEZ	STATE BLDG #13	LOCATION	STAFF

*** VOLUNTEER & GROUND SITES ***
 222 21st AVENUE SUGMATH

MITCHELL TICKNOR (907)574-3005

PARTICIPANTS IN: ANCHORAGE AND

1	PEIT	PANARESI	AK STATE PARKS	TSFY, HB 404
	PO BOX 107001		ANCHORAGE	AK 99510 (907)762-2603
2	SANDRA	ARNOLD		TSFY, SB 77
	PO BOX 200606		ANCHORAGE	AK 99520 (907)276-3670
3	DAN	HOUBIHAN	AK STATE PARKS	TSFY, HB 404
	PO BOX 107001		ANCHORAGE	AK 99510 (907)762-2614
4	CHRIS	BAACH	ANCHOR BUDNON	TSFY, SB 77
	PO BOX 101161		ANCHORAGE	AK 99510 (907)276-4265
5	TRACY	ARELL	SIERRA CLUB	TSFY, SB 77

LEGISLATIVE-001
 03/07/94

LEGISLATIVE TELECONFERENCE NETWORK

PAGE 02
 15:25:30

CONF: 40444 DATE & TIME: 03/07/94 08:12 TO 10:00 STATUS: 7 STATS: IN

PARTICIPANTS IN: ANCHORAGE AND

1	3303 PATES CIR	ANCHORAGE	AK 99515 (907)345-0132
	GEORGE BELL		TSFY, SB 77
	14345 CODY	ANCHORAGE	AK 99516 (907)345-3135

PARTICIPANTS IN: CORDOVA COP

1 MR.	JORN	GLENNALLEN	TSFY, HB 404
	PO BOX 1110	CORDOVA	AK 99574 (907)424-7511

PARTICIPANTS IN: DELTA JCT DJI

1 MR.	DEPALE	QUARRERS	OROV, SB 77
	PO BOX 349	DELTA JCT.	AK 99737 (907)895-4215
2 MS.	CHAYMOE	WALKER	OROV, SB 77
	HC 82, BOX 5360	DELTA JCT.	AK 99737 (907)895-1024
3 MR.	ITH	GERB	OROV, SB 77
	HC 82, BOX 5360	DELTA JCT.	AK 99737 (907)895-1024

PARTICIPANTS IN: DILLINGHAM DLG

1 MR.	DUGAN G.	NIELSEN	TSFY, HB 404
	BOX 103	DILLINGHAM	AK 99576 (907)842-2743

PARTICIPANTS IN: FAIRBANKS FBK

1 MR.	PERRY	ANDOGAR	TSFY, HB 404
	122 1ST AVE.	FAIRBANKS	AK 99701 (907)452-8251

2 MR.	DICK	BISHOP	FAIRBANKS	TSFY, SB 77
	1555 GUS'S GRIND			AK 99709 (907)455-3151
3 MR.	GEORGE	YASKA	TCC	TSFY, SB 77
	122 1ST AVE.		FAIRBANKS	AK 99701 (907)477-2362
4 MS.	KATHRINE	RICHARDSON	FAIRBANKS	OBSV, SB 77
	P.O. BOX 80744			AK 99708 (907)479-2362

PARTICIPANTS IN GLENNALLEN GLN

1 MR.	LES	SUTHERLAND	ORNA	OBSV, HB 404
	DRAPER H		COPPER CENTER	AK 99573 (907)822-3944
2 MR.	JAMES B.	MOULINGTON	ADF&G	OBSV, SB 77
	PO BOX 47		GLENNALLEN	AK 99588 (907)822-3461

PARTICIPANTS IN HOMER LTD HON

1 MR.	RARDY	FRANKLIN	HOMER	TSFY, SB 77
	PO BOX 192A			AK 99603 (907)235-7104
2 MR.	L. R.	MCQUEENS	SCURVEY CR.	FISH TSFY, ALL ITEMS
	PO BOX 1650		HOMER	AK 99603 (907)000-0000

PARTICIPANTS IN JUNEAU JRU

1 REP	R	WILLIAMS		TSFY, ALL ITEMS
				AK (907)000-0000
2 REP	P	CARNEY		TSFY, ALL ITEMS
				AK (907)000-0000
3 REP	R	HUDSON		TSFY, ALL ITEMS
				AK (907)000-0000
4 REP	D	FINLESTEIN		TSFY, ALL ITEMS
				AK (907)000-0000
5 REP	G	DAVIES		TSFY, ALL ITEMS
				AK (907)000-0000

11:100-001 LEGISLATIVE TELECONFERENCE NETWORK PAGE 05
 01/07/94 15:25:34
 TCR: 40446 DATE & TIME: 06/07/94 08:15 TO 10:00 STATUS: ? STAT: IN

PARTICIPANTS IN JUNEAU JRU

6 REP	G	MULDER		TSFY, ALL ITEMS
				AK (907)000-0000
7 REP	G	GUNDE		TSFY, ALL ITEMS
				AK (907)000-0000
8 REP	J	JAMES		TSFY, ALL ITEMS
				AK (907)000-0000
9 REP	G	NAVARRE		TSFY, ALL ITEMS
				AK (907)000-0000
10 MS	RAY	GILLESPIE		TSFY, ALL ITEMS
	ASSOC. OF AGRICULTURE AS SOCIATION			AK (907)000-0000
11 REP	R	SHARP		TSFY, ALL ITEMS
	PRIME SPONSOR			AK (907)000-0000
12 MR	DAVID	KELLYHOUSE		TSFY, ALL ITEMS
	DIV. DIV. OF WILDLIFE, DEPT. OF F&G			AK (907)000-0000
13	TO	OBSERVE		OBSV, ALL ITEMS
14	TO	OBSERVE		OBSV, ALL ITEMS
15	TO	OBSERVE		OBSV, ALL ITEMS
16	TO	OBSERVE		OBSV, ALL ITEMS
17	TO	OBSERVE		OBSV, ALL ITEMS
18	TO	OBSERVE		OBSV, ALL ITEMS
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25	TO	OBSERVE		OBSV, ALL ITEMS

26 10 TESTIFY
 27 10 TESTIFY
 1 SFY, ALL ITEMS
 KOD KOD REE AGUACULT OBSV, HR 448
 AK 99615 (907) 986-6555
 KODIAK
 PARTICIPANTS IN: KODIAK
 1 MR. LARRY
 BOX 3997
 MALLOY
 KOD KOTZEBUE IRA
 OBSV, HR 404
 AK 99752 (907) 442-3467
 KOTZEBUE
 1 MR. BILLY
 BOX 698
 WILLY
 PARTICIPANTS IN: KOTZEBUE
 1 MR. SHEL DON
 WILLY
 2 MR. BILL JAMES
 BOX 742
 WILLY
 2 MR. STEPHEN
 BOX 299
 MALLOY
 PARTICIPANTS IN: KOTZEBUE
 1 MR. GREN
 724 LUMBER AVE.
 GREN
 1 MR. GREN
 724 LUMBER AVE.
 GREN
 2 MR. LEE
 BOX WOODWILL DRIVE
 GREN
 PARTICIPANTS IN: KOTZEBUE
 1 MR. RUD
 BOX 2190
 RUD
 1 MR. BENO
 PALMER
 AK 99641 (907) 378-2913
 SFY, HR 21
 PARTICIPANTS IN: KOTZEBUE
 1 MR. GUYA, SR 77
 AK 99501 (907) 225-7695
 OBSV, SR 77
 1 MR. SFY, HR 448
 AK 99501 (907) 225-7694
 OBSV, SR 77
 PARTICIPANTS IN: KOTZEBUE
 1 MR. PETER
 1308 SAMWELL
 CREEK RD.
 SIKKA
 AK 99835 (907) 747-6850
 SFY, HR 448
 PARTICIPANTS IN: KOTZEBUE
 1 MR. TOM
 HE 2 BOX 888
 BEARS
 CIAA
 KODIAK
 AK 99469 (907) 280-2721
 OBSV, SR 77
 PARTICIPANTS IN: KOTZEBUE
 1 MR. JERRY
 BOX 88
 GUYA
 AK 99780 (907) 883-5804
 OBSV, SR 77
 PARTICIPANTS IN: KOTZEBUE
 1 MR. DONALD K. TAYLOR
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 TAYLOR
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 SFY, HR 404
 PARTICIPANTS IN: KOTZEBUE
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 VALDEZ
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 OBSV, ALL ITEMS
 1 MR. DONALD K. TAYLOR
 BOX 3118
 TAYLOR
 VALDEZ
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 SFY, HR 448
 1 MR. DONALD K. TAYLOR
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 SFY, HR 448
 1 MR. DONALD K. TAYLOR
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 VALDEZ
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 SFY, HR 448

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HOUSE RESOURCES COMMITTEE

DATE: 3/7/94

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
 HJR 17 Magnuson Fishery Conservation + mgt. Act
 HB 404 Land Allotments
 HB 448 - Waste + Use Of Salmon + Parts of Salmon
 SB 77 - Intensive management of Game

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Bill Garry	State DNR Parks	400 Willoughby	99801		465-4563	(Y) N	HB 404
Geron Bruce	Fish/Game	P.O. BX 25524	99802		465-6193	(Y) N	HB 448
Dave Kelleyhouse	Fish & Game	"	"		465-4191	(Y) N	HS CSSB 77 ✓
Ran Gillespie	Aquaculture	9478 Riverbend Ct	99801	784-3941	463-3372	(Y) N	HB 448
Kevin McDougall	FISHERMAN PROCESSORS	Box 714 Douglas	99824		364-2273	(Y) N	HB 448
Roger McKowan	Rep Hoffman					(Y) N	HB 404
John George	AOE	9515 Moraine Way Tanalar	99802	789-0172		(Y) N	HB 77
						Y N	
						Y N	
						Y N	
						Y N	

HB

426

(9)

Date Referred: February 18, 1994

FURTHER REFERRALS

Finance

Date of Committee Action: 2/28/94

The RESOURCES Committee considered:

HB 426

HOUSE BILL NO. 426

CHICKALOON FLATS CRITICAL HABITAT AREA

"An Act establishing the Chickaloon Flats Critical Habitat Area."

RECOMMENDATIONS:

be replaced with CS HB 426 (O & G)

the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) ANF & G / 2-11-94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
John R. Davies Davies	<input checked="" type="checkbox"/>	Robert A. Carney Carney		<input checked="" type="checkbox"/>	
Aldon Mulder Mulder	<input checked="" type="checkbox"/>	John Green Green		<input checked="" type="checkbox"/>	
Car Bunde Bunde	<input checked="" type="checkbox"/>	James James		<input checked="" type="checkbox"/>	
Bill Hudson Hudson	<input checked="" type="checkbox"/>				

Bill Hudson
CHAIRMAN'S SIGNATURE

SPONSOR STATEMENT

HB 426

“An Act establishing the Chickaloon Flats Critical Habitat Area”

Chickaloon Flats is on the northeast side of the Kenai Peninsula, on the Turnagain Arm facing the Anchorage Coastal Refuge and Potter Flats. The area has a local nesting population of ducks and geese. The most important use of this area is as a feeding and resting area for migrating ducks, geese and shore birds. Up to 25,000 birds a day use the mudflats and tidal marsh. For example, the area is often used when Portage Pass is closed due to bad weather. The waterfowl that normally transit the pass have to have a place to rest and feed. Chickaloon Flats is the principal place they use on Turnagain Arm.

Alaska has the most comprehensive waterfowl refuge and critical habitat system of any state in the nation. There is Mendenhall State Game Refuge, 17,000 acres, Anchorage Coastal Refuge, 14,000 acres, Trading Bay State Game Refuge, 186,000 acres, Redoubt Bay Critical Habitat Area, 201,000 acres, Goose Bay State Game Refuge, 14,000 acres, Palmer Hay Flats State Game Refuge, 38,000 acres, Susitna Flats State Game Refuge, 301,000 acres and Fox River Flats Critical Habitat Area. The Chickaloon Flats area, with approximately 22,000 acres, will be an important addition to this system.

The purpose of this bill is to assure adequate habitat for waterfowl rather than create a stumbling block for future development of resources. There are currently no valid oil and gas leases in the proposed critical habitat area that would be disrupted by the formation of a critical habitat area. Additionally, there is nothing in this bill that would preclude the future exploration of this area.

I urge your support of this proposed legislation.

CS FOR HOUSE BILL NO. 426(O&G)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Offered: 2/18/94

Referred: Resources, Finance

Sponsor(s): REPRESENTATIVE BUNDE

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Chickaloon Flats Critical Habitat Area."

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

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

4 Sec. 16.20.630. CHICKALOON FLATS CRITICAL HABITAT AREA. (a)

5 The following described area is established as the Chickaloon Flats Critical Habitat
6 Area:7 The land and water encompassed by a boundary beginning at the point
8 on the shore of Chickaloon Bay at longitude W149 degrees, 53 minutes;
9 thence westerly along the mean high water line of Chickaloon Bay to
10 longitude W150 degrees, 18 minutes; thence easterly to the point of the
11 beginning.12 (b) The department shall permit entry within the Chickaloon Flats Critical
13 Habitat Area for the exploration and development of oil and gas resources when it is
14 compatible with the purposes for which the critical habitat area is established.

1 (c) The department shall permit public uses of the Chickaloon Flats Critical
2 Habitat Area in a manner that is compatible with the purposes for which the critical
3 habitat area is established. The department shall permit the following public uses to
4 continue without further approval by the department unless the department determines
5 that the use is not compatible with the purposes for which the Chickaloon Flats Critical
6 Habitat Area is established:

7 (1) hunting, including subsistence hunting, trapping, and subsistence,
8 commercial, and sport fishing;

9 (2) hiking, backpacking, and camping, including the use of campfires;

10 (3) cross-country skiing, snowmachining, boating, and the landing of
11 aircraft; and

12 (4) other related uses that are temporary in duration and have no
13 foreseeable adverse effects on vegetation, drainage, soil stability, or fish and game and
14 their habitat.

**PROPOSED CHICKALOON FLATS
CRITICAL HABITAT AREA
BACKGROUND INFORMATION**

LOCATION: The proposed Chickaloon Flats Critical Habitat Area is located on the south side of Turnagain Arm at the head of Cook Inlet and is bisected by the Chickaloon River.

AREA DESCRIPTION: The proposed Chickaloon Flats Critical Habitat Area encompasses a large expanse of state-owned tidelands lying within the Kenai Peninsula Borough. Adjacent uplands are managed by the Kenai National Wildlife Refuge.

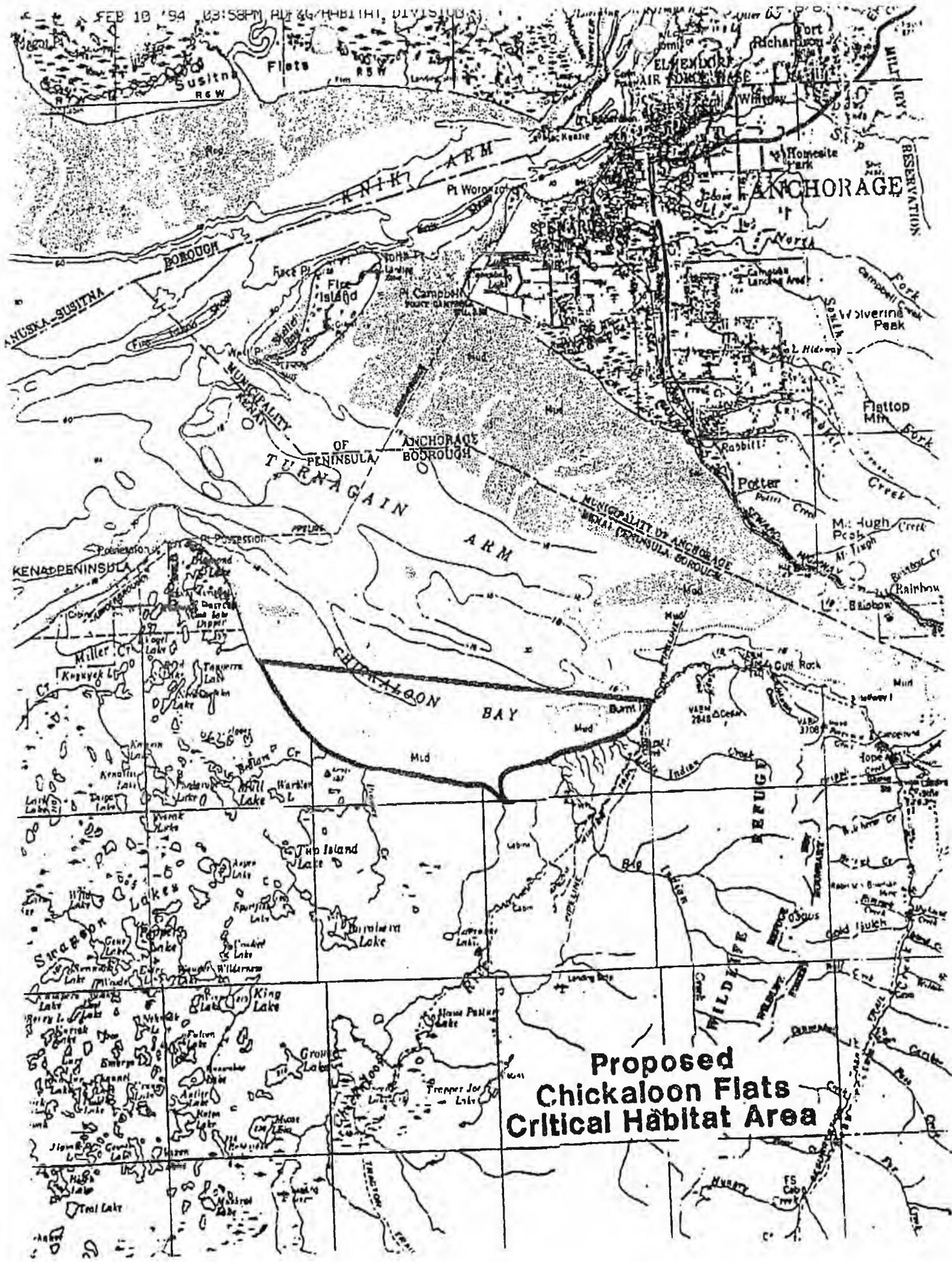
FISH AND WILDLIFE RESOURCES: Chickaloon Flats is one of a handful of key waterfowl and shorebird habitats in Cook Inlet which provide vital staging habitat for arctic nesting birds on their way to and from nesting grounds in the north. The mudflats and tidal marsh at the mouth of the Chickaloon River, created by the dramatic tidal action of Turnagain Arm, are critical waterfowl and shorebird feeding and resting habitat during spring and fall migration. In the fall, waterfowl waiting out bad weather replenish energy reserves on Chickaloon Flats before flying south through Turnagain Pass. Up to 25,000 birds a day use the mudflats and tidal marsh for resting and feeding during fall migration, including up to 5,000 lesser Canada geese at a time. Fall migrants include: tundra and trumpeter swans; lesser Canada geese; white-fronted geese; sandhill cranes; mallards; pintails; green-winged teal; shovelers; gadwalls; and American wigeon. Additional waterfowl species found during ice free months include: red-breasted mergansers, canvasbacks, common merganser, greater scaup, and common goldeneye. Snow geese and swans are most numerous on the flats during spring migration.

Northern phalaropes, glaucous-winged gulls, mew gulls, Bonaparte's gulls, arctic terns, common snipe, yellowlegs, dowitchers, semipalmated plovers, sandpipers, whimbrels, and godwits also feed on the productive estuarine tideflats.

PUBLIC USE AND ACCESS: Chickaloon Flats has long been recognized as an important waterfowl hunting area in Cook Inlet. Fall waterfowl hunters access Chickaloon Flats by floatplane, landing on river channels and larger ponds or arrive by boat from the nearby community of Hope. Four-wheel drive vehicles are also used to access the area along unmaintained pipeline access roads through the Kenai National Wildlife Refuge. Mallards, pintails, wigeon, and green-winged teal are most frequently harvested.

REFERENCES:

- Quimby, Roland L. 1972 Waterbird Habitat and Use of Chickaloon Flats. pp 86.
- U.S. Fish and Wildlife Service. 1985 Kenai National Wildlife Refuge Final Comprehensive Conservation Plan. pp 195.



**Proposed
Chickaloon Flats
Critical Habitat Area**

FISCAL NOTE

No. 1

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO.

Bill Version: CSHE 426 (O&G)
(H) Publish Date: 2/18/94

Revision Date: _____
Title: Chickaloon Flats Critical Habitat Area
Sponsor: Representative Bunde
Requestor: (H) Special Committee on Oil & Gas

Dept. Affected: Fish and Game
BRU: Habitat and Restoration
Component: Habitat
COMPONENT SERIAL NO. 486

Expenditures/Revenues	(Thousands of Dollars)					
	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()	0	0	0	0	0	0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTLA						
Other						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Frank Rue, Director Phone: 465-4105
 Division: Habitat and Restoration Date: February 11, 1994
 Approved by Commissioner: [Signature] Date: February 11, 1994
 Agency: Alaska Department of Fish and Game

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

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