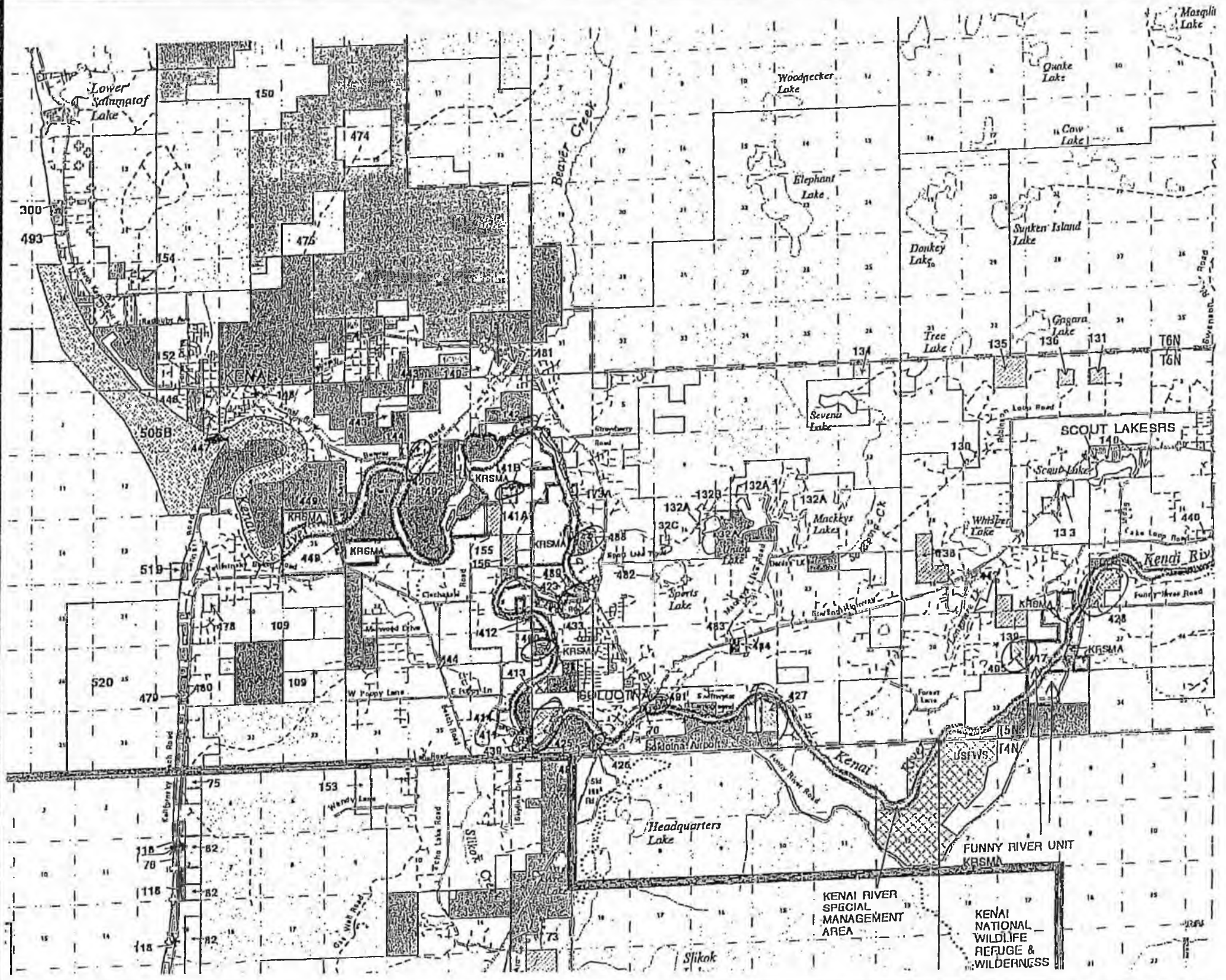


ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

10734 HOUSE COMMUNITY & REGIONAL AFFAIRS



Lower Salmagatos Lake

Woodpecker Lake

Quake Lake

Cow Lake

Elephant Lake

Donkey Lake

Sythen Island Lake

Tree Lake

Gagara Lake

Sevena Lake

SCOUT LAKESRS

Scrub Lakes

Whisper Lake

Mackys Lakes

Kenai Riv

Headquarters Lake

KENAI RIVER SPECIAL MANAGEMENT AREA

FUNNY RIVER UNIT KRSMA

KENAI NATIONAL WILDLIFE REFUGE & WILDERNESS

Slikok

KENAI RIVER SPECIAL MANAGEMENT AREA  
ADVISORY BOARD

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ADVISORY BOARD

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Ted Wellman Davis, Wright, Tremaine 701 West 8th Avenue Suite 800 Anchorage, AK 99501 e-mail: <a href="mailto:tedwellman@dwt.com">tedwellman@dwt.com</a>	Phone: 257-5300 (W) 345-4654 Fax: 257-5399  10/01/05
Paul A. Shadura P.O. Box 1632 Kenai, AK 99611 e-mail: <a href="mailto:sabaka@ptialaska.net">sabaka@ptialaska.net</a>	Phone: 262-1771 (H) 283-5098 (W)  10/01/05
Jim Golden P O Box 1723 Soldotna, AK 99669 e-mail: <a href="mailto:jbgolden@alaska.net">jbgolden@alaska.net</a>	Phone: 262-7491 (W) 262-7482 (H)  10/01/04
David Westerman PO Box 751 Cooper Landing, Alaska 99572 e-mail: <a href="mailto:David_Westerman@fishgame.state.ak.us">David_Westerman@fishgame.state.ak.us</a>	Phone: 595-1576 262-9368 (W)  10/01/05
Roland Maw Box 530 Soldotna, AK 99669 e-mail: <a href="mailto:ucida@acsalaska.net">ucida@acsalaska.net</a>	Phone: 262-6101 (h) 260-9436 (w)  10/01/04
Ken Lancaster, President P O Box 104 Soldotna, Alaska 99669 e-mail: <a href="mailto:mavor@qci.net">mavor@qci.net</a>	Phone: 262-4591 (h) 260-6727 (w)  10/01/04
Richard Hahn P.O. Box 2754 Soldotna, Alaska 99669 e-mail: <a href="mailto:rdhahn@eagle.ptialaska.net">rdhahn@eagle.ptialaska.net</a>	Phone: 262-8575 (h)  10/01/04
Jeff King P.O. Box 2711 Soldotna, Alaska 99669 e-mail: <a href="mailto:lakerfsh@alaska.net">lakerfsh@alaska.net</a>	Phone: 262-4564  10/01/04

# STATE OF ALASKA

FRANK H. MURKOWSKI  
GOVERNOR

DEPARTMENT OF FISH AND GAME  
OFFICE OF THE COMMISSIONER

P.O. BOX 25526  
JUNEAU, AK 99802-5526  
PHONE: (907) 465-4100  
FAX: (907) 465-2332

February 20, 2004

The Honorable Thomas Wagoner  
Alaska State Senate  
Room 427, State Capitol  
Juneau, AK 99801

Dear Senator Wagoner,

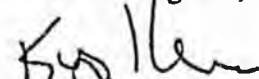
The Alaska Department of Fish & Game supports Senate Bill 190.

Section 2 of this bill adds lands purchased specifically for conservation purposes into the Kenai River Special Management Area (KRSMA). Most of these lands are wetlands not available for other uses, but which are critical habitats, and as such, we support their inclusion into the KRSMA.

Section 4 excludes employees, elected officials, or other representatives of a federal or state governments from being appointed to the Kenai River Special Management Area Advisory Board. Alternatively, it allows such individuals to serve as non-voting advisory members. We support this change. We do not believe it is appropriate for these individuals to hold voting seats, but do feel their input is necessary and valuable.

Please let me know if you have any questions.

With best regards,



Kelly Hepler  
Director, Division of Sport Fish  
Alaska Department of Fish and Game



**KENAI PENINSULA BOROUGH**

144 N. BINKLEY • SOLDOTNA, ALASKA • 98688-7599  
BUSINESS (907) 262-4441 FAX (907) 262-1092

**DALE BAGLEY  
MAYOR**

**VIA FAX: 907 465-4779**

Senator Tom Wagoner  
State Capitol, Rm. 427  
Juneau, AK 99801-1182

Dear Senator Wagoner:

I support the provisions of Senate Bill 190 that provides for more local control of the Kenai River Special Management Area Advisory Board by making state and federal agency representative ex-officio members of the board.

I strongly oppose having any additional land added to the Kenai River Special Management area.

Sincerely,

Dale Bagley  
Kenai Peninsula Borough Mayor



February 20, 2004

## CITY OF KENAI

*" Oil Capital of Alaska "*

210 FIDALGO AVE., SUITE 200 KENAI, ALASKA 99811-7794  
TELEPHONE 907-283-7535  
FAX 907-283-3014



Senator Thomas H. Wagoner  
State of Alaska  
State Capitol, #427  
Juneau, AK 99801

RE: **SENATE BILL 190 - LETTER OF SUPPORT**

Senate Bill 190 has been crafted to add certain state-owned lands into the Kenai River Special Management Area (KRSMA), as well as change the membership of the Board, identifying agency representatives as ex-officio non-voting members.

At their regular meetings of January 21 and February 18, 2004, the Kenai City Council reviewed Senate Bill 190 and the properties to be added to the Management Area.

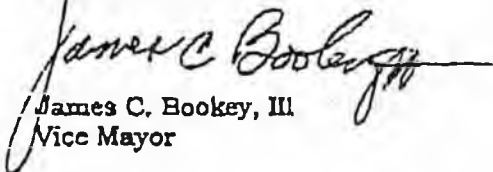
Addition of Properties: Of those properties proposed to be added to the Management Area, two are situated inside the boundaries of the City of Kenai -- Government Lot 9 and Tract A-1B. The Kenai City Council voiced no objections to these properties being added to the Management Area.

Board Restructuring: Though voting privileges will be removed, the proposed amendments continue to acknowledge the importance of inclusion of agency representation and participation on the Board. The Kenai City Council voiced no objections to these proposed amendments.

The Kenai City Council supports the proposed amendments to AS 41.21.502 and AS 41.21.510 included in Senate Bill 190. The Council also emphasizes the importance of the amendment to AS 41.21.501(b) to ensure the representation of user groups, resident property owners, and municipalities are those who are "adjacent to the Kenai River."

If you have any questions, please contact us at 283-8231.

CITY OF KENAI

  
James C. Hookey, III  
Vice Mayor

JCB/clf

**ADVISORY BOARD**

February 20, 2004

The Honorable Tom Wagoner  
Alaska State Legislature  
State Capital  
Juneau, AK 99801

Dear Senator Wagoner:

During the February 19<sup>th</sup> meeting of the Kenai River Special Management Area Advisory Board, a discussion of SB 190 was held. As you are aware, the KRSMA Board has long advocated for additional lands being added to the KRSMA, so that lands important for fish and wildlife resources and habitat and for recreation are protected for the benefit of all.

We support the addition of the 550 acres of land in the lower river that are identified in SB 190. We decided to offer no comments on the section of the bill relating to the Advisory Board makeup with the exception that we recommend that the wording be changed to permit a public member to serve as a voting member, even if they happen to be an employee of a state or federal agency. That person would not be serving as an agency representative, and under the current wording, one of our board members who was recommended by the community of Cooper Landing would be unable to serve as he also happens to be an employee of the state. We don't believe that it was your intention to prevent this type of service, and urge you to amend this section accordingly.

Thank you for the opportunity to comment on this bill.

Sincerely,

Ken Lancaster  
President, KRSMA Advisory Board



January 30, 2004

Honorable Tom Wagoner  
Senator, Alaska State Legislature  
State Capitol  
Juneau, Alaska, 99801-1182

Dear Senator Wagoner,

I met you and your wife, Dorothy, at Diana and Jim Zirul's party this past New Year's Eve. We talked a short time about your home dry wall needs, SBS being closed on Sundays, and our new Home Depot being open.

I hear you have a keen interest in the long term health and well being of the Kenai River and are sponsoring SB-190 to legislatively add State-owned public lands to the Kenai River Special Management Area Plan (KRSMA). I strongly support your leadership in doing this. Even though I'm a member of the KRSMA Advisory Committee, I'm writing to you as a very interested private property owner and stakeholder in the economy of the Kenai Peninsula. I believe aggressive management of the Kenai River and Kasilof River watersheds is vital to the long term prosperity of our community. However, I would like to try to convince you to strengthen SB-190 by adding the state-owned public lands and waters in the upper Kenai River watershed, as listed in CS HB-165. Those lands and waters provide a significant portion of habitat and spawning areas for Kenai River sockeyes. I worry that leaving these upper River State-owned lands and waters in limbo risks sale and development or uncontrolled impacts on these habitats, to the detriment of the watershed and our economy. As you may know, CS HB-165 passed the House in 2001 essentially on a unanimous vote. For reasons unknown to me, CS HB-165 "died" in committee in the Senate in 2001 because of objections raised by your predecessor, John Torgerson. Since he is apparently no longer a factor in this matter, it seems likely that SB-190, if supplemented by the additional public land tracts listed in CS HB-165, with one possible exception, would be a non-controversial bill in both the Senate and the House. That possible exception could be the tract of land along the SW shore of Kenai Lake, which contains the Chugach Electric Association (CEA) aqueduct from Cooper Lake to CEA's power generating station. Since it seems that CEA could be concerned that designating this land as KRSMA might impact their re-licensing process, it

might be prudent to set that tract aside for now and concentrate on the rest of the upper watershed lands and waters that are not controversial.

For your information, I have sent a letter to US Senator Ted Stevens requesting he personally endorse SB-190, and a similar letter, with the recommendations and rationale above, to Senator Gary Stevens and suggested he join you in sponsoring SB-190. I have also sent similar letters to Representatives Mike Chenault, Kelly Wolf and Paul Seaton requesting they support your (hopefully supplemented) bill in the House. If all the pertinent State-owned lands are legislatively added to the KRSMA through SB-190, there is no doubt in my mind it would be a key milestone in contributing to the health and well being of the Kenai River, and provide long lasting economic benefits to the Peninsula.

Thank you for any response or action you may take on these requests. I have included a separate, short biographical sketch to help you understand my interest and involvement in the requests in this letter.

Sincerely,



Richard Hahn

P.O. Box 2754

Soldotna, Alaska, 99669

907-262-8575

email [rdhahn@ptialaska.net](mailto:rdhahn@ptialaska.net)

# STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES  
OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

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FAX: (907) 465-3886
- 550 WEST 7<sup>TH</sup> AVENUE, SUITE 1400  
ANCHORAGE, ALASKA 99501-3650  
PHONE: (907) 269-8431  
FAX: (907) 269-8918

March 4, 2004

Mona Painter, President  
Cooper Landing Community Club  
PO Box 508  
Cooper Landing, AK 99572

Dear Mrs. Painter:

Thank you for your February 3, 2004 letter concerning your support for adding lands along the shoreline of Kenai Lake to the Kenai River Special Management Area (KRSMA), and your recommendation that these lands be added to SB 190. I understand that there has long been interest in Cooper Landing to see additional lands added to the KRSMA.

This session, Senator Tom Wagoner introduced SB 190 to only add lands in the lower Kenai River watershed to the KRSMA. I am not aware that the upper Kenai River watershed state lands are vulnerable to threats that might warrant their addition to KRSMA, plus the Division of Parks and Outdoor Recreation's operating budget is so limited that it might be difficult for our agency to take on the additional responsibility for new lands added to the park system. We feel it is up to the local community and your legislative delegation to recommend any additional lands to KRSMA.

I recommend that you contact Senator Wagoner to discuss amending SB 190, consistent with the wishes of the local community. Thank you again for taking the time to share your recommendations for the upper Kenai River watershed.

Sincerely,



Thomas E. Irwin  
Commissioner

cc: Senator Tom Wagoner  
Gary A. Morrison, Director, Parks and Outdoor Recreation

Track # 04-1021

*"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."*

## Cooper Landing Community Club

Since 1949---community center park, cemetery, rifle range recreation property, museum property,  
Helen Rhode Memorial Park permit, ambulance and fire department property lease...

PO Box 508 Cooper Landing, AK 99572

February 3, 2004



At community center park, Bean Creek Road

At Snail-a-thon Beach (KAP Unit 390)

Tom Irwin, Commissioner  
Department of Natural Resources  
400 Willoughby Avenue, Suite 500  
Juneau, AK 99801

Dear Commissioner Irwin:

After receiving several emails and two phone calls regarding Senate Bill 190, I brought this matter before the Cooper Landing Community Club members at the Jan. 29, 2004 meeting. I read the letter the CLCC wrote to Commissioner Shively Jan. 30, 2000 (copy enclosed) during discussion. The CLCC passed a motion to once again confirm our belief in the Cooper Landing Advisory Planning Commission's comments regarding the Kenai Area Plan included in the 1996 Cooper Landing Land Use Classification Plan For Borough-Owned and Borough Selected Lands. I will enclose a copy of that section of the plan. The focus of the attention was on section c on page 31 of 35 recommending that shoreline lands along Kenai Lake be included in the Alaska State Park System... These lands were not included in SB 190.

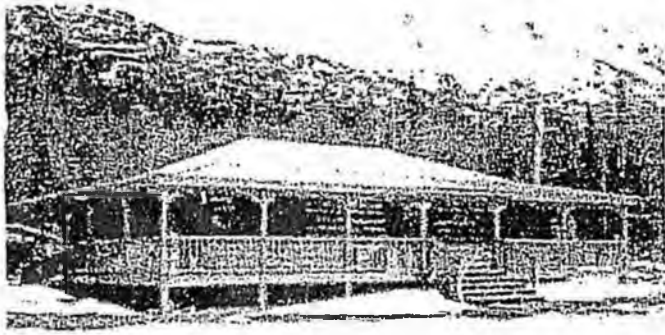
Sincerely,

Mona Painter, President

(907) 595-1248  
[painter@arctic.net](mailto:painter@arctic.net)

copies:

State Parks Kenai Area Supt. Degernes,  
Kenai Pen. Borough Mayor Bagley,  
Senator Tom Wagoner  
Senator Gary Stevens  
Representative Dan Ogg



## COOPER LANDING COMMUNITY CLUB, INC.

Since 1949----Library, Park, Cemetery, Ambulance Squad, Dall Homemakers, Gun Club  
P.O. Box 508 Cooper Landing, AK 99572

John Shively, Commissioner  
Department of Natural Resources  
400 Willoughby Avenue, 5th Floor  
390

January 30, 2000

Juneau, AK 99801

re: Kenai Area Plan, particularly Unit

Dear Commissioner Shively:

We reaffirm the Cooper Landing Advisory Planning Commission's comments regarding the Kenai Area Plan in the Cooper Landing area which were written to Bruce Talbot and Nancy Pease of the Department of Natural Resources on May 11, 1995. These comments are included in our Cooper Landing Land Use Classification Plan For Borough-Owned and Borough Selected Lands adopted by the Kenai Peninsula Borough via Ordinance 96-37: An Ordinance Incorporating The 1996 Cooper Landing Land Use Plan Update as an Element of the Kenai Peninsula Borough Comprehensive Plan.

Unit 390, which includes lands between Snug Harbor Road and Kenai Lake in which our Snail-a-thon beach/community picnic site is located, is of particular concern to us since Kenai Peninsula Borough Mayor Dale Bagley has requested this state land be available for Kenai Peninsula Borough selection. We want this area kept for public access recreation, scenic value, and habitat protection. We do not want this land developed. The annual Snug Harbor Snail-a-thon is the biggest community fund raiser for support of the community park and the Cooper Landing Elementary School bringing in over \$45,000. through the years. Approximately 100 people gather annually on that beach for this one event.

Cooper Landing residents enjoyed the use of the Snail-a-thon beach/community picnic site even before the Snug Harbor Snail-a-thon began in 1980. This is one place on the Cooper Landing end of Kenai Lake that people can access without going through private property, a USFS campground, or through the power transmission line right-of-way. Residents who cannot walk from the Snug Harbor Road can be driven to the beach so that even physically challenged folks can enjoy this beautiful site.

Our affirmation comes to you through a motion which passed unanimously at our regularly scheduled meeting January 27, 2000. The meeting and agenda were publicized in advance.

Sincerely,

CC: DNR Talbot, DNR Loeffler, DNR Degernes,  
Senator Torgerson Representative Davis  
K. P. Borough Mayor Bagley  
CLAPC Wilson

Mona Painter, President  
(907) 595-1248  
painter@arctic.net

## V. STATE LAND

### 1. Recommendations to the State re: State Lands

Although this plan (1996 Cooper Landing Land Use Plan Update) applies to land which has all ready been selected by the Borough, significant consideration was given to the Kenai Area Plan as set forth by the State of Alaska Department of Natural Resources because of the likelihood of selection of these lands by the Borough in the future.

On May 11, 1995, the CLAPC forwarded a letter to DNR outlining the Commission's concerns and recommendations for the lands in the Cooper Landing area addressed in the Kenai Area Plan. Appendix #3 is a copy of this letter.

Map "D", in the back of this document, shows some of the Kenai Area Plan Recommendations.

In cases where the State is still considering the Borough's selections, Unit Numbers have been assigned to these areas and are being discussed as part of the Kenai Area Plan. A Final Decision issued by the State of Alaska gives the Borough management authority on those lands and issuance of a Patent may or may not include certain conditions on the transfer of ownership and/or changes in the amount of acreage conveyed.

The following is a brief summary of the recommendations forwarded to the State DNR:

- a. The CLAPC considers Units numbered 388, 389, 390, 391, 393A, 393B, 394A, 394B, 395, and 396 as falling within the planning area, and/or having a significant affect on the community of Cooper Landing.
- b. That the Kenai Area Plan Planning Team consider certain portions of the 1992 Community Recommendations On A Land Use Plan for Borough Lands; specifically, the portion beginning "Land Status and Existing Land Use" and the Survey Results (of) Cooper Landing Community Goals. The directions for community growth and expansion expressed in this document reflect our goals for both state and borough lands. The plan should be useful to State Land Management Planners in formulating State Land Use Decisions in the Cooper Landing area.
- c. The CLAPC recommends that the state shoreline lands along Kenai Lake and its tributary streams be included in the Alaska State Park System for habitat protection, scenic value, and public access as specified in Kenai River Special Management Area, 1986. These

Cooper Lake Roads are appropriate per Section 1A of Cooper Landing community Goals Survey, August 1991.

GENERAL COMMENT: While the CLAPC supports traditional firewood and house-log use of Units 388 and 389, we question the utility of sales like the current hemlock rich, 240 acre Cooper Lake sale. We oppose extensive permanent road construction in this area and support the State's designation of winter removal on proposed sales. The community would rather limit permanent roads to planned development projects.

The Commission is concerned with the broad commercial leasing guidelines for Unit 388 and would like to work with the state on more refined designations with greater protection of habitat and recreation values around Cooper Lake. The community recommendations for borough-selected lands were crafted during the winter of 1995-1996. It is the intention of the Commission members to continue working with the state on Cooper Lake designations and guidelines to balance community expansion needs with retention of current recreation values. Future commercial and residential land disposals in Unit 388 and 389 must be coordinated with development plans on borough-selected lands and must be subject to community comment and approval.

#### VI. POTENTIAL NEW SELECTIONS UNDER AS 29.65

##### 1. Recommendations to the Borough re: State and Borough Lands.

Although the above recommendations were addressed to the State, the following sections are included herewith as recommendations for selection/classification process (and other suggestions) to be considered by the Kenai Peninsula Borough.

- a. The selection of the 1,138-acre Unit 395 for community expansion as a residential subdivision with consideration for the integrity of the Resurrection Pass Trail System and surrounding fish and wildlife habitat. Also, all residential recommendations are contingent upon the ability of the developer to provide adequate road access, adequate sewage disposal facilities, and a potable water supply.

The commission recommends a 200 foot preservation greenbelt along either side of the Juneau Bypass state right-of-way, with limited access, and no roadside commercial development.

- b. The selection of the 523-acre Unit 394B for community expansion as commercial and residential subdivision. The northeast corner of this parcel where the Sterling Highway runs directly along the Kenai River to the south of Cooper Creek Campground is an important bald eagle winter feeding area and should be protected either by inclusion in State

- b. There is to be NO access to or from the new alignment other than the departure from the existing road at either end of the bypass. The NO ACCESS issue is not a matter taken lightly by the community

Diverting traffic away from the business district could be damaging to the community's economic base. Most businesses rely heavily on tourism and it is difficult enough to operate on a seasonal basis. It is important to the residents that Cooper Landing remain a viable, thriving community.

## VII. IMPLEMENTATION

While this 1996 Update to the 1992 CLLUP provides recommendations to the KPB on the classification of its land, it is not a revision of the 1992 CLLUP. The CLAPC is encouraged to update the 1992 CLLUP to address the many significant issues affecting the Cooper Landing community as mentioned in the introduction.

KPB 17.10.080(I) states that "classification or reclassification shall be compatible with any land use plan adopted under the borough comprehensive plan or another plan approved the assembly. If a proposed classification or reclassification is not compatible with an approved land use plan, a plan revision shall be necessary before the classification or reclassification is adopted." Classifications are general land use recommendations. Within each classification definition there is significant latitude to implement the classification. It is not until KPB land is disposed or developed for a public purpose that classification is ultimately implemented. Prior to development, large tracts of KPB land need to be, at a minimum, surveyed, soil tested, and subdivided. This could cause the modification of classification boundaries. Specific decisions on items such as lot size and alignment of roads can only be decided during the subdivision planning and development stage.

Certain preexisting land uses have been determined through filing of subdivision plats and reservations in conveyance instruments. Specifically, land that has been subdivided has established or dedicated access, easements, and, in some cases, development setback and non-development buffer areas. Where these decisions have been made through the platting process, classification recommendations do not supersede the subdivision plat. Additionally, land use plans and KPB classifications are subject to any restrictions and reservations imposed on the property by patent or conveyance documents from the State of Alaska, the United States or the Kenai Peninsula Borough.

The Southern Intertie Route Selection Study Phase 1, dated May 3, 1996 shows Cooper Landing as being affected by one of the alternate corridors. The alternate alignment generally parallels the existing Quartz Creek transmission line. Should this alignment be selected the right-of-way for the intertie would be an additional 150 feet.

**Subject:** SB190 Resources Committee Testimony

**Date:** Mon, 16 Feb 2004 14:39:40 -0900

**From:** <akscitec@alaska.net>

**To:** Senator\_Thomas\_Wagoner@legis.state.ak.us

Dear Senator Wagoner,

This is testimony of the Friends of Cooper Landing (FOCL), for the Senate Resources Committee hearing on SB 190, Monday, February 16, 2004.

We are a broad-based community organization, which understands from long experience how important a healthy Kenai River and watershed are to the life and economy of people living on the Kenai Peninsula. For that reason FOCL supports adding critical parcels of land to the Kenai River Special Management Area.

Unfortunately we cannot support SB 190 in its current form, because it will negatively impact river management. State and Federal agencies are responsible for maintaining the health of the Kenai River System. Removing State and Federal agency voting memberships will simply politicize the KRSMA Board, and potentially allow special interests to dominate. That would be very unwise, as well as be inappropriate for a management board. We strongly oppose this section of SB 190, which is unacceptable as written.

Thank you,

Bob Baldwin, President  
Friends of Cooper Landing  
akscitec@alaska.net

Thanks for SB 190

**Subject:** Thanks for SB 190

**Date:** Thu, 22 Jan 2004 17:27:21 -0800

**From:** "Wellman, Ted" <tedwellman@DWT.com>

**To:** "Senator\_Thomas\_Wagoner@legis.state.ak.us" <Senator\_Thomas\_Wagoner@legis.state.ak.us>

Thanks for introducing SB 190. I would like to encourage you to consider adding other lands in the upper part of the river to KRSMA that are equally or more critical to the health of the river in future legislation. The original bill Ken introduced contained the main tributaries of the river such as Trail River and areas around Trail Lake, Funny River, Quartz Creek, a few parcels around Kenai Lake, Cooper Landing and other other similar areas. If memory serves me correctly, none of the land had to be purchased. If there is controversy, affected parcels could be left out. What I would like to see is the salmon streams be protected before development makes a mess of the rearing habitat as has been done on the Lower Kenai. . I would happy to show you on the map these other lands when convenient for you. Thanks again for your help

Ted Wellman<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Davis Wright Tremaine, LLP

tedwellman@dwt.com

(907) 257-5326

Fax (907) 257-5399

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*Called  
507 3:30*

**Subject: KRSMA board SB190**

**Date:** Sun, 21 Mar 2004 15:03:30 -0900

**From:** "Mona Painter" <painter@arctic.net>

**To:** <Mary\_SIROKY@legis.state.ak.us>

**CC:** <cameron\_yourkowski@legis.state.ak.us>

Dear Chairman Carl Morgan:

My name is Jim H. Richardson from Cooper Landing, AK. After retirement I served for over five years as a public member from Cooper Landing for the Kenai River Special Management Area Board. This board has been the most effective body for receiving public input and preparing consolidated recommendations to D. N. R. for action that I encountered in my entire 33 year career of natural resource management with B.L.M. Many of the questions or issues brought before the board could be answered or resolved on the spot because all the key agency people were there. The recommendations in the Kenai River Plan were the result of public meetings in Soldotna, Cooper Landing, Anchorage, and elsewhere to gather public comments and formulate them into specific proposals.

I am deeply concerned by the portion of S. B. 190 that would take away the voting rights of agency and other members. This would discourage active agency participation and result in for less useful recommendations.

I recommend that this portion of the bill be deleted and the KRSMA Board be left to operate as t has so effectively in the past.

Jim H. Richardson

P. O. Box 757

Cooper Landing, AK 99572

Email:mrich@alaska.net

# STATE OF ALASKA

## Cooper Landing Fish & Game Advisory Committee

Frank H Murkowski, Governor

Bill Stockwell, Chair  
PO Box 721  
Cooper Landing, AK 99572-0721  
Phone: 595-1540

March 20, 2004

Honorable Carl Morgan  
Chair, House Community and Regional Affairs Committee  
State Capitol Building,  
Juneau, AK 99801-1182

SENT BY FAX 2 PAGES

SUBJECT: Senate Bill 190

Dear Chairman Morgan and Committee Members

At our meeting of March 18, 2004, the members of the Cooper Landing Advisory Committee voted unanimously to OPPOSE Section 4 of Senate Bill 190, changing the KRSMA Advisory Board Membership, and asked me to relay this opposition to our District Representative Paul Seaton which I did. His office informed me that your House Committee would be holding a hearing on March 23 and suggested that I contact you direct with our concerns.

The Cooper Landing AC SUPPORTS adding Lower River Lands to KRSMA, Section 2 of SB 190, and hope more additions can continue to be added in the future. However, we strongly feel that the proposed change to the voting membership of the KRSMA Advisory Board, Section 4 of SB 190, is certainly not in the best interest of Community of Cooper Landing and is bad policy for all Alaskans. We ask you to OPPOSE this section and AMEND TO REMOVE Section 4 before enactment of SB 190.

Cooper Landing is an unincorporated community whose residents depend on the health of the Kenai River Watershed and its adjacent land for their economic well-being and quality of life. While our voting population is small, much of the river's resources and viable habitat are in our area. The Community has depended for many years on good working relationships with ADF&G, DNR Lands and Parks, the Kenai National Wildlife Refuge, and the Forest Service for the management of our area's most vital resources. As proposed in Section 4 of SB 190, these land managers and resource experts would no longer vote on Kenai River issues vital to Cooper Landing while leaving the Municipalities of Soldotna, Kenai and the Borough as voting members. This change would shift the power to manage the Kenai River to the population base at the mouth of the river and be to the detriment of the residents of the Upper Kenai River and all Alaskans and other users in general.

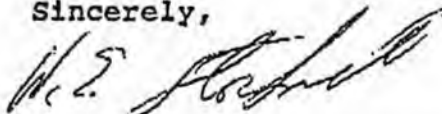
PAGE 2 COOPER LANDING ADVISORY COMMITTEE MARCH 20, 2004

We believe that the changes proposed in Section 4 of SB 190 violate the original intent of the 1984 KRSMA Act. In Section 1, Findings, of the 1984 Act it states: "A multitude of state and federal agencies with jurisdiction over various aspects of the river and adjacent public lands creates a labyrinth of regulation without effectively preventing the river's deterioration. The river's fishery and wildlife are its most important resources. The highest priority uses of the river and its adjacent land derive from its fishery and wildlife which must be protected and preserved to ensure their renewability and continued usefulness. To solve the river's problems a need exists for a comprehensive management plan for the river and its adjacent land and for coordinated management."

Coordinated management of the Kenai River Watershed requires that all land and water managers, resource managers, users and the public have equal seats at the table and that all have an equal voice and vote. To do otherwise violates the original findings of the act. Depriving all governmental entities except municipalities from vote is both unwise and poor public policy. While the health the Kenai River is of importance to adjacent municipalities, their expertise is not in management of fish and wildlife habitat and resources but in the development of land for growth and tax purposes. To leave the municipalities adjacent to the Kenai River as the only governmental entities with vote certainly seems to violate the finding that "The river's fishery and wildlife are its most important resources."

Thank you for allowing us this opportunity to provide testimony on Senate Bill 190 and thank you for examining our concerns and comments. We ask that Section 4 of SB 190 be removed in fairness to all Alaskans. If you need more information or have any questions, please contact Bill Stockwell by phone or fax at 595-1540.

Sincerely,

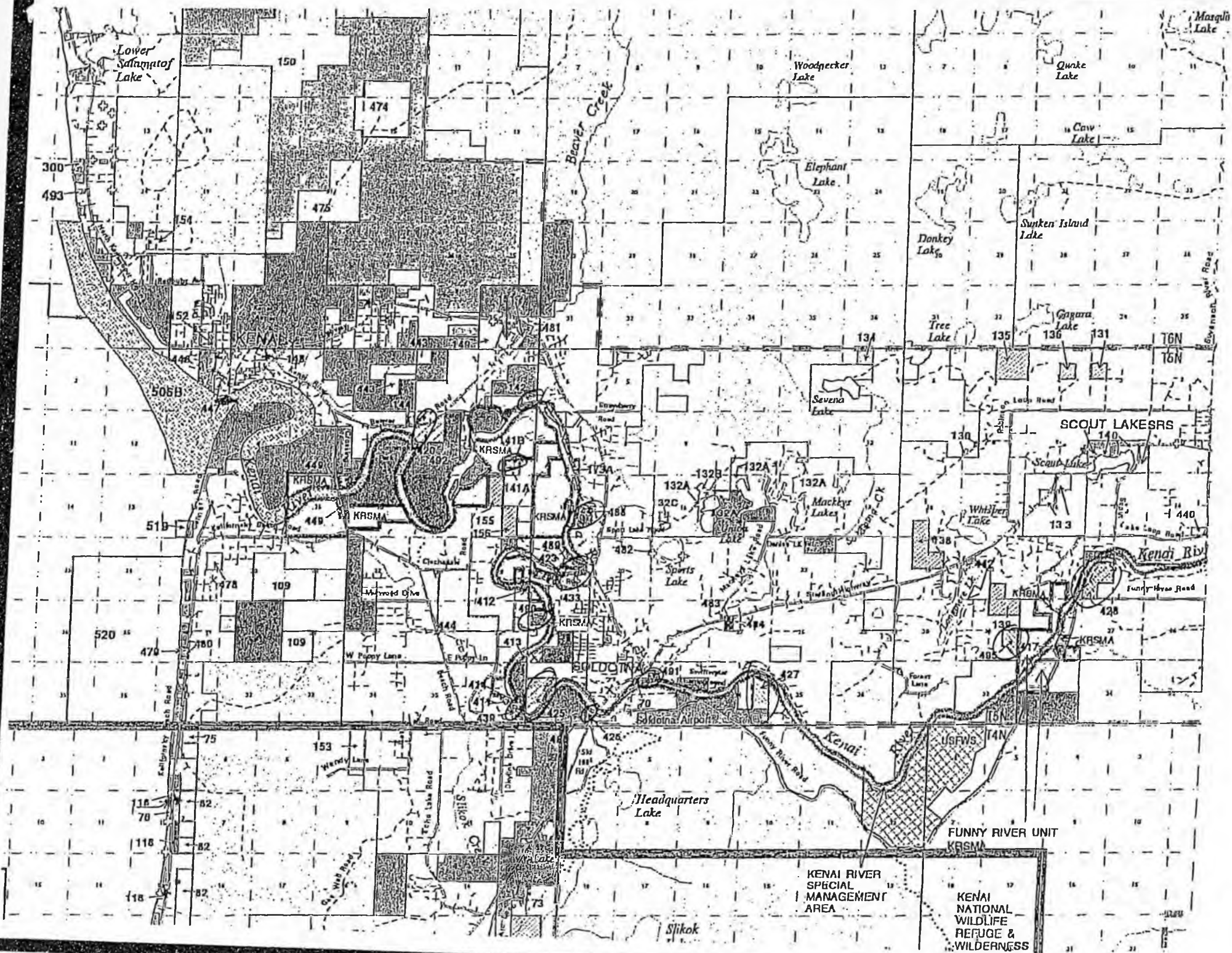


Bill Stockwell, Chair

cc: Representative Paul Seaton  
ADF&G Board Support

RE: SB 190, Kenai River Special Management Area  
Department of Natural Resources  
February 27, 2004  
Senate Resources Committee

- The subsurface estate is the dominant estate.
- EVOS Conservation Easements only apply to the portion of the estate acquired with EVOS funds.
- The use of lands acquired with EVOS funds is controlled by the terms of the conservation easements on them. The KRSMA designation does not affect the conservation easements.
- Conservation easements associated with EVOS lands apply to the specific land interest acquired. If the subsurface estate was not part of the purchase, the conservation easement cannot limit access to the mineral estate any more than the surface owner of any parcel of land can limit access to the minerals underlying his estate.
- Typically we did not acquire the subsurface estate with EVOS funds. If we did acquire the subsurface estate on any of the EVOS funded parcels, utilization of the minerals on that specific parcel would be limited by the terms of the Conservation Easement.
- Typically the oil and gas rights on many of the EVOS acquired parcels were previously conveyed to the State of Alaska via patent and as such would not be subject to the terms of the Conservation Easement.
- Generally, the Conservation Easement on EVOS acquired parcels is consistent with Parks Management intent and the KRSMA designation.
- The conservation easement has no effect on adjacent parcels.



KENAI RIVER SPECIAL MANAGEMENT AREA  
ADVISORY BOARD

AGENCIES

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KENAI RIVER SPECIAL MANAGEMENT AREA  
ADVISORY BOARD

	Term Expires
Joe Connors P.O. Box 1085 Sterling, AK 99672 e-mail: <a href="mailto:joe@kenaiquide.com">joe@kenaiquide.com</a>	Phone: 262-9496  10/01/05
Ted Wellman Davis, Wright, Tremaine 701 West 8th Avenue Suite 800 Anchorage, AK 99501 e-mail: <a href="mailto:tedwellman@dw.com">tedwellman@dw.com</a>	Phone: 257-5300 (W) 345-4654 Fax: 257-5399  10/01/05
Paul A. Shadura P.O. Box 1632 Kenai, AK 99611 e-mail: <a href="mailto:sabaka@ptialaska.net">sabaka@ptialaska.net</a>	Phone: 262-1771 (H) 283-5098 (W)  10/01/05
Jim Golden P O Box 1723 Soldotna, AK 99669 e-mail: <a href="mailto:jhgolden@alaska.net">jhgolden@alaska.net</a>	Phone: 262-7491 (W) 262-7482 (H)  10/01/04
David Westerman PO Box 751 Cooper Landing, Alaska 99572 e-mail: <a href="mailto:David_Westerman@fishgame.state.ak.us">David_Westerman@fishgame.state.ak.us</a>	Phone: 595-1576 262-9368 (W)  10/01/05
Roland Maw Box 530 Soldotna, AK 99669 e-mail: <a href="mailto:ucida@acsalaska.net">ucida@acsalaska.net</a>	Phone: 262-6101 (h) 260-9436 (w)  10/01/04
Ken Lancaster, President P O Box 104 Soldotna, Alaska 99669 e-mail: <a href="mailto:mayor@qci.net">mayor@qci.net</a>	Phone: 262-4591 (h) 260-6727 (w)  10/01/04
Richard Hahn P.O. Box 2754 Soldotna, Alaska 99669 e-mail: <a href="mailto:rdhahn@eagle.ptialaska.net">rdhahn@eagle.ptialaska.net</a>	Phone: 262-8575 (h)  10/01/04
Jeff King P.O. Box 2711 Soldotna, Alaska 99669 e-mail: <a href="mailto:lakerfish@alaska.net">lakerfish@alaska.net</a>	Phone: 262-4564  10/01/04

## BYLAWS

### KENAI RIVER SPECIAL MANAGEMENT AREA ADVISORY BOARD

The Kenai River Special Management Area Advisory Board was originally created in 1985 under the authority of A.S. 4 .510. The original Board was charged with developing a comprehensive management plan for the Kenai River. The original Comprehensive Plan was completed and the Board disbanded in 1986. In 1988, a new Board was appointed to help advise the Department of Natural Resources on implementation of the Plan. In July of 1995, Governor Knowles reappointed the Board and redirected the Board to address a series of specific new goals including updating the Plan. These by-laws reflect the changed scope of work for the Board.

#### I. PURPOSES

A. The purposes of the Kenai River Special Management Area Citizens Advisory Board (hereinafter referred to as "the Board") are:

1. To advise the Governor of the State of Alaska and the Commissioner of the Department of Natural Resources on issues relating to the Kenai River watershed other than matters related to fisheries allocation;
2. To update the Kenai River Management Plan and monitor implementation of the new Plan;
3. To propose changes to regulatory processes to affect better interagency coordination;
4. To propose programs to educate the public about the importance of habitat protection along the Kenai River;
5. To review and encourage the adoption of the State, federal and local regulations which protect the habitat along the Kenai River while considering the legitimate rights of both public and private property owners;
6. To represent the broad public interest including those of property owners, the Kenai Peninsula Borough, municipalities, agencies of the State and Federal governments, and other interested groups, on issues related to the Kenai River;
7. To hold public meetings, consult with and solicit recommendations from the public;
8. To advise the Governor and the Commissioner of the Department of Natural Resources of regulations necessary to achieve implementation of the plan;
9. To address management issues, review and make recommendations on budgeting priorities, permits and other field operations or policy matters, and advise the Commissioner of the Department of Natural Resources of such recommendations;
10. To encourage the development of standard designs for boardwalks, docks, bank stabilization and other improvements that restore and protect habitat which may be permitted on an expedited basis; and
11. To review and make recommendations regarding major new permit applications not covered by standard designs for docks, boardwalks, bank stabilization and other within the Kenai River Special Management Area.

B. Other purposes of this advisory board are:

1. To provide a forum for the collection and expression of public opinions and recommendations on matters relating to the Kenai River Special Management Area and its watershed;
2. To promote the protection of resources of the Kenai River Special Management Area, including its aesthetic values, vegetation, wildlife, soils, fishery, water, educational, historic, and outdoor recreation opportunities ;

3. To inquire into matters of public interest relating to the Kenai River Special Management Area to bring matters of interest to the attention of the public; to appear and testify at public hearings as representatives of the Board;
4. To make recommendations, when the Board deems appropriate, to local, state, and federal agencies and to legislative bodies relating to issues affecting the Kenai River other than matters of fish allocation;
5. To promote interpretation and public awareness of the natural and human history of the Kenai River Special Management Area;
6. To increase public awareness and understanding of human impacts on the Kenai River Special Management Area and its resources;
7. To promote cooperation between the Kenai Peninsula Borough, municipalities, the Division of Parks and Outdoor Recreation, and other State and Federal organizations;
8. To propose and advise on cooperative agreements and land acquisitions or exchanges; and
9. To enlist public and legislative support for the Kenai River Special Management Area's policies and programs.

## II. PUBLIC ATTENDANCE

Meetings of the Board are open to the public. The Board shall prescribe rules of procedure and decorum while specifying limits, and the manner of, public participation in the meetings, as further delineated under Section VI. F.

## III. MEMBERSHIP

There shall be seventeen members on the Board consisting of public and agency members. Public members shall be selected to ensure representation of the broad spectrum of public interests involved with or affected by the Kenai River and to prevent domination of the Board by a single viewpoint unrepresentative of the river's broad constituency. It is the intention of these Bylaws that the Board's membership reflect representation of such adjacent geographical areas as the Cooper Landing area, the Sterling area, the cities of Soldotna and Kenai, as well as the river users in south central Alaska in general. The agency members shall be from: the Kenai Peninsula Borough, the City of Soldotna, the City of Kenai, the US Forest Service, the US Fish and Wildlife Service, the Alaska Department of Fish and Game, the Alaska Department of Natural Resources, and the Alaska Department of Environmental Conservation. The membership shall also reflect, by demonstrated interests, expertise, and advocacy for the river, various activities and skills such as fishing and hunting, motorized and non-motorized boat use, back-country hiking, trail-related use by hikers, runners, cyclists, and horseback riders, Nordic skiing, canoeing and kayaking, nature observation, natural sciences, outdoor education, appropriate commercial uses and concessions, and real estate and land use planning expertise.

Any Board member may, of course, represent viewpoints of more than one such area, activity, or skill. It is recognized that the Board's membership cannot accurately reflect all opinions of the interested populace on every issue, but there shall be no deliberate concentration of specific viewpoints on the Board which would be contrary to the balanced representation specified in these Bylaws. Each Board member carries the responsibility to represent the broad public interest and no member shall consider himself or herself merely an advocate of a specific group.

#### IV. NOMINATIONS AND APPOINTMENTS

A. The Commissioner of the Department of Natural Resources shall appoint the nine citizen members of the Board. Beginning December, 1997, four members shall be appointed for two-year terms and five members shall be appointed for three-year terms. Thereafter, the term of appointment shall be two years, with all terms scheduled to expire on October 1 of the appropriate year.

B. Each agency may select its representative for its position. One alternate may be appointed by each agency. The Commissioner of the Department of Natural Resources retains the right to approve or reject the agency's nominations for representative and alternate.

C. At least three months prior to expiration of the term of office of an incumbent member of the Board, the Board, through its nominating committee, shall solicit applicants from the public, from user groups, from area communities, and from the Commissioner of the Department of Natural Resources to fill the anticipated vacancy. Notice of the vacancy and the application procedures shall be published in local newspapers. The Board shall discuss the applications and shall, no later than one month prior to expiration of the term of office, nominate to the Commissioner no fewer than three individuals for each vacancy. The Commissioner shall, with thirty (30) days, appoint to each vacancy one member from among those nominated, the appointment to be effective upon expiration of the term of office of the incumbent. A Board member may be reappointed by the solicitation and nomination process specified in this paragraph.

D. If a Board vacancy occurs before the expiration of a member's term, the Board shall make three nominations from the current application list at any regular or special meeting. Any interested member of the public may be placed on an application list by submitting formal application to the Board. Such nominations shall be immediately forwarded to the Commissioner for appointment, which shall be made within fifteen (15) days following submission of the nominees to the Commissioner. An appointee to a vacant Board position shall serve the unexpired term of the person whose vacancy has been filled.

E. Any member desiring to resign from the Board shall submit his or her resignation in writing to the President.

#### V. REMOVAL OF BOARD MEMBERS

A. Removal Upon Unexcused Absence. A vacancy in the seat of any member may be declared to exist by an eleven (11) member vote of the entire Board if that member has, without previously being excused, failed to attend three regular meetings of the Board within any twelve month period, or two consecutive meetings.

B. Removal for Cause. A Board member may be recommended for removal for cause by an eleven (11) member vote of the entire Board. Upon approval of that action by the Commissioner, the member shall be removed and the seat declared vacant. Cause for removal of a Board member shall be limited to the following:

- 1) flagrant repeated violations of the rules and procedures developed by the Board for conduct of Board and Board committee meetings and

- 2) knowing violations of the Board Bylaws on conflict of interests.

C. Notice of Proposed Removal Action. Any motion that the Board remove any member under A or B above must be adopted by the Board as an agenda item for a regular or special meeting occurring at least one month after the motion is proposed to take such action. The member whose position is proposed to be declared vacant shall receive notice of the

proposed action at least twenty (20) days prior to the action, and shall be permitted to respond, in writing and orally, before such action is taken.

## VI. MEETINGS

A. Meetings shall be held on the third Thursday of the month. The Board may establish other meeting schedules as it deems appropriate by majority vote. Rules and procedures governing all such meetings of the Board shall be according to the most recent edition of Robert's Rules of Order.

B. Special meetings may be called by the President (or, in his/her absence, the Vice President), or by any five board members, or by the Commissioner of the Department of Natural Resources. Special meetings may include polls by telephone or facsimile communications and voting for emergency situations.

C. The Commissioner of the Department of Natural Resources shall make a reasonable attempt to deliver notice of all special meetings to each member five (5) days prior to the meeting date. All notices of special meetings shall state the purposes thereof. All special meetings will be scheduled so as to ensure the greatest possible attendance by all members of the Board.

D. A quorum of the transaction of business at any regular or special meeting of the members shall consist of a majority of the members of the Board (9) with a minimum of not less than five members representing the public. Any number of members present at a duly called meeting constituting less than a quorum shall postpone the meeting to a time and place where a quorum is expected to be present. A majority of a quorum is required to approve items of business unless as otherwise required.

E. No person shall represent anything as the position of the Board, except when the position has been approved by vote of a majority of the quorum.

F. Each agenda for all Board meetings shall include public comment scheduled at a time during the agenda to ensure the greatest public participation. Testimony shall be limited to three (3) minutes.

G. The Board agenda shall be established by the President of the Board or in his or her absence, by the Vice President. Any Board member may, by request to the President, add items to the agenda. The Board agenda may be modified or amended by majority vote at the initiation of the meeting.

H. The Board will have an annual meeting in September of each year. In addition to the normal agenda, the following agenda items will be included: 1) elections of President and Vice-President; 2) review of the continuing need for standing and ad hoc committees; 3) appointment to committees; and 4) annual reports from the committees.

## VII. OFFICERS AND COMMITTEES

A. The officers of the Board shall be a President and one Vice President, each of whom shall be elected by the Board. Such other officers and assistant officers as are deemed necessary may be elected by the Board. Board officers shall serve without salaries.

B. The officers of the Board shall be elected annually by the Board. Each officer shall hold office until his or her successor has been duly elected, except that a vacancy shall be filled in the manner hereinafter provided.

C. Any officer elected by the Board may be removed from that office by an eleven (11) member vote of the full Board membership whenever, in its judgment, the best interest of the Park and the public would be served thereby. Any such removal shall not affect that person's membership on this Board.

D. A vacancy in any officer position because of death, resignation, removal, disqualification, or otherwise, may be filled by majority vote at any regular or special board meeting.

E. The President may appoint such standing, and ad hoc committees as necessary, in order to promote the efficient conduct of Board business and maximum active participation by the public. Each committee may have non-Board members as nonvoting participants, but shall have at least one member of the Board. Ad hoc committees are established to accommodate specific tasks over a prescribed period of time.

F. The President shall, in general, supervise and coordinate all the affairs of the Board and shall, when present, preside at all meetings of the Board.

## VIII. CONFLICT OF INTEREST

A Board member shall immediately disclose to the Board any significant conflict of interest involving any particular matter presented to the Board for action. A significant conflict of interest exists if the Board is asked to consider and recommend agency action, involving any real or personal property in which the Board member, or a member of his or her immediate family, holds a direct financial interest. If the Board determines a conflict of interest exists, the affected Board member shall not participate in discussion or vote on the issue. This conflict of interest policy shall not be construed to preclude Board members from participating in discussions or voting on issues in which the Board member has a general financial interest by as a result of being a member of a group or class of users affected by the proposed action.

Whenever any notice is required to be given to any member of the Board under the provisions of these Bylaws or under the provisions of the statutes of the State of Alaska, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance at a meeting by a member constitutes notice of the meeting.

## IX. AMENDMENTS

The Board may adopt, alter, amend, or repeal the Bylaws with an eleven (11) member vote of the entire board, with the concurrence of the Commissioner of the Department of Natural Resources.

## XI. SUPPORT

The State Department of Natural Resources shall furnish the following staff and services to the Board:

1. A designee to act as ex-officio as Secretary to the Board;
2. Upon request, furnish a meeting room;
3. Provide mail-out services for the notices and agendas of meetings, and provide public notice of the meetings by issuing press releases to all Kenai Peninsula radio stations and newspapers, as well as one Anchorage paper;
4. Prepare, circulate, and keep minutes of the meetings;
5. Furnish necessary maps, plans, and data for agenda items, as otherwise agreed from time to time;
6. In consultation with the President, the staff shall provide an agenda for each meeting.

Approved: *s/John Shively/* December, 1997

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSSB 190(STA)  
(S) Publish Date: 1/21/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
Title Kenai River Special Management Area RDU Parks & Recreation Mgt.  
Component Parks Management  
Sponsor Sen. Wagoner  
Requester (S) STA Component No. 452

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personnel Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill adds a number of parcels of land in the lower Kenai River area to the Kenai River Special Management Area (KRSMA). These lands are currently being managed by the Division of Parks and Outdoor Recreation. The proposed additions include a portion of those envisioned in both the 1997 Revised Kenai River Comprehensive Management Plan, adopted by DNR in 1997, and the Kenai Area Plan adopted by DNR in 2000. The bill also excludes state or federal employees from serving as public members of the Advisory Board.

There is no fiscal impact anticipated with implementation of this legislation.

Prepared by: Pete Panarese Phone 269-8700  
Division: Parks Date/Time 1/20/04  
Approved by: Thomas Irwin, Commissioner Date 1/20/04  
Agency: Natural Resources

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSSB 190(STA)  
(S) Publish Date: 1/21/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
Title: Kenai River Special Management Area RDU: Sport Fisheries  
Component: Sport Fisheries Habitat  
Sponsor: Senator Wagoner  
Requester: Senate State Affairs Component No.: 2698

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Passage of this legislation would have no fiscal impact.

Prepared by: Kelly Hepler, Director  
Division: Sport Fish  
Approved by: Commissioner Kevin Duffy  
Agency: Alaska Department of Fish & Game

Phone: 465-4180  
Date/Time: 1/16/04 4:18 PM  
Date: 1/16/2004

# ALASKA STATE LEGISLATURE



Official Business

## SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Resources Committee
- Vice-Chair, Senate Community and Regional Affairs Committee
- Member, Legislative Council

Session: January - May  
State Capitol, #427  
Juneau, AK 99801  
Phone: 907-465-2828 Fax: 907-465-4779

Interim: May - December  
145 Main Street Loop, Suite 226  
Kenai, AK 99611  
Phone: 907-283-7996 Fax 907-283-3075

## Sectional Analysis SB 190

**"An Act adding certain state-owned land and water to the Kenai River Special Management Area; relating to the mineral estate of the state-owned land and water in the Kenai River Special Management Area; amending the qualifications for members of the Kenai River Special Management Area advisory board; and providing for an effective date."**

**Section 1** States that the purpose of SB 190 is to add certain state-owned land and water to the Kenai River Special Management Area

**Section 2** Amends AS 41.21.502(a)(4)(L) by adding in the parcels of land that will be in the Kenai River Special Management Area. These are primarily EVOS lands, with a couple parcels that were left out of the original bill.

**Section 3** Amends AS 41.21.502(c) by rewording the statute so it reads more clearly.

**Section 4** Amends AS 41.21.510(b), which is the set up of the KRSMA advisory board. A person working for the federal or state government will no longer be a voting member of the board, but an ex officio.

**Section 5** Immediate effective date.

# ALASKA STATE LEGISLATURE



Official Business

## SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Resources Committee
- Vice-Chair, Senate Community and Regional Affairs Committee
- Member, Legislative Council

Session: January - May

State Capitol, #427

Juneau, AK 99801

Phone: 907-465-2828 Fax: 907-465-4779

Interim: May - December

145 Main Street Loop; Suite 226

Kenai, AK 99611

Phone: 907-283-7996 Fax 907-283-3075

---

## Sponsor Statement

### SB 190

**"An Act adding certain state-owned land and water to the Kenai River Special Management Area; relating to the mineral estate of the state-owned land and water in the Kenai River Special Management Area advisory board; and providing for an effective date."**

To provide the protection and management of the Kenai River system called for in the comprehensive management plan, certain state-owned land must be Legislatively added to the boundary of the Kenai River Special Management Area (KRSMA). KRSMA is managed as a unit of the Alaska State Parks system in the Department of Natural Resource under AS 41.21.500.

The lands that Senate Bill 190 will add to the Kenai River Special Management Area are primarily the 536 acres acquired as habitat and recreation lands under funds from the Exxon Valdez Oil Spill settlement. There are also a few isolated tracts of state land that had been overlooked during the initial 1984 KRSMA legislation.

This bill also changes the structure of the KRSMA advisory board. Originally representatives from state and federal agencies could be appointed to the board. SB 190 changes AS 41.21.510(b) so members of user groups, resident property owners and municipalities make up the voting members of the advisory board, and those members from state or federal agencies will be ex officio.

Existing park staff assigned to the Kenai River Special Management Area is adequate to cover additional management responsibilities and there are no new facilities proposed for these additional lands.

SPONSOR STATEMENT

# ALASKA STATE HOUSE OF REPRESENTATIVES

Representative Carl Morgan, Chair  
Representative Kelly Wolf, Vice Chair  
Representative Tom Anderson  
Representative Ralph Samuels  
Representative Pete Kott  
Representative Sharon Cissna  
Representative Albert Kookesh



Alaska State Capital, Room 408  
Juneau, AK 99801-1182  
Telephone: (907) 465-3882  
Fax: (907) 465-4527  
representative\_carl\_morgan@legis.state.ak.us

## HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS Representative Carl Morgan, Chair

**AGENDA**  
State Capital 124  
May 3, 2004  
8:00am

- Call to Order
- SB 190 Kenai River Special Management Area
- SB 382 Eminent Domain/Replat of Boundary Changes
- SB 387 Commercial Fishing Loans for Quota Shares
- Next meeting - Tuesday 8:00 – 10:00am
- Adjourn

March 8, 2004

Representative Carl Morgan  
Chair, Community and Regional Affairs Committee

SUBJECT: Senate Bill No. 190

Dear Representative Morgan and Committee Members

My name is Bill Stockwell and I am from Cooper Landing. I ask that this letter be accepted as my testimony on SB 190.

As listed in Section 2 of this bill, I support the land additions to KRSMA and hope this process can continue as planned.

However, I am ADAMANTLY OPPOSED to the changes in the voting membership composition of the KRSMA Advisory Board as proposed in Section 4 of this bill. The KRSMA Board has functioned admirably as a public/resource manager/community board for the past 20 years and has planned for and operated a most successful resource that has benefited all Alaskans and others as well. To eliminate as voting members the major watershed land managers (The State of Alaska, US Forest Service, and the Kenai National Wildlife Refuge) while leaving Soldotna, Kenai and the Borough as voting members unfairly disfranchises and needlessly discriminates against the rest of the citizens of Alaska and the United States while favoring only those residents of municipalities adjacent to the Kenai River. Residents of Anchorage, the Mat-Su and elsewhere own businesses, property, fish and use the Kenai River Watershed. To deny them their collective vote by law is unequal treatment and poor public policy.

This issue is important to the Community of Cooper Landing. People come from Alaska and throughout the world to enjoy the scenery and resources of our area. The economy of Cooper Landing is almost totally dependent on the resources of the Kenai River Watershed and the residents of Cooper Landing enjoy a lifestyle that the local area and resources provide. The Community remains active on river issues and continues to support the KRSMA Plan. However, Cooper landing is not a municipality. I feel that proposed changes to the KRSMA Board would unfairly favor the Lower Kenai River municipalities against the communities in the Upper Kenai River Watershed. While Cooper Landing is represented by the Borough, our small voting numbers and distance from the seat of Borough government leaves us at a disadvantage.

Please leave the River Board Membership as is. Thank you for reading my comments and concerns.

Sincerely,



Bill Stockwell

P.O. Box 721

Cooper Landing, AK 99572

Phone 595-1540

cc: Representative Seaton



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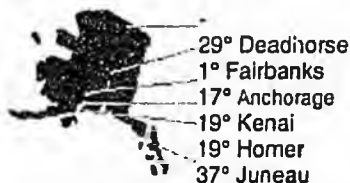
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**Legislator still questions KRSA  
Update From Juneau**

**Rep. Kelly Wolf**

As your legislator, my job is to represent the constituents of District 33 on the Kenai Peninsula. I have worked to do that to the best of my ability, taking into consideration all the different interactions of our sometimes very diverse community. One thing I promised when I took this job was that I would not ride the fence. As a child, I was taught right from wrong and to take responsibility. I also was taught to stand up for what I believe, no matter what the odds.

As your representative, I want to explain to you what I see as the difference between what's right and wrong.

Since 1994, Kenai River Sportfishing Association has been holding a "fishing derby" under the name "Kenai River Classic." The group's former executive director who assisted in starting the Kenai River Classic clarifies this event as a "fishing derby" in his letter dated April 29, 1994, requesting a permit from the state Department of Revenue for this event.

Since this time, Kenai River Sportfishing Association has failed to report gross receipts and the net proceeds on the (schedule AO) operate/multiple-beneficiary permit activity report, as required under the terms and conditions and issuance of a gaming permit in the state of Alaska.

From the beginning, in 1994, management of the Kenai River Classic has raised questions within our community over expenditures and the board members' agenda governing their three top priorities: allocation, conservation and education.

In my investigation of Kenai River Sport-fishing Association's Kenai River Classic, I have discovered several questionable issues surrounding this "fishing derby."

1. A fishing derby is an event that awards prizes to contestants for catching fish.
2. Kenai River SportFishing Association awards prizes to winners of the Kenai River Classic in three categories. These trophies are not of cash, but hand carved trophies having a moderate value between \$ 100 and \$300 per current market

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value and the artist's reputation and

popularity. They hand carve these one-of-a-kind trophies for this special event.

3. Kenai River Sportfishing Association's "Release a Hog Program" is a year-round event that pays an individual \$900 toward an artificial

mount of equal size for king salmon that is caught and released which is categorized as a "hog" by KRSA's pre-approved guides. The Kenai River Classic also has a catch-release trophy and encourages catch and release of fish categorized as "hogs." This brings up the question of whether players of the event have ever been awarded funds for such a mount, which without question has a value?

4. This event looks to be a lightly veiled political action committee, or PAC, event for lobbyists to present their issues to powerful elected officials while under the guise of a gaming event. Information from past members of the organization state that pairing of players with elected officials takes place during the event. As well as questions about accounting of event funds, questions are raised as to the creditability of board members and their particular agendas.

5. This investigation has gathered legal information pertaining to the handling of gross revenues and net proceeds from gaming events. Gaming revenues are to be deposited in gaming accounts and reported annually to the Department of Revenue. Net proceeds from gaming events must be dedicated within one year to one or more uses as defined in regulations. An excise tax is required to be paid on all net proceeds of gaming activities.

6. Under the Department of Revenue gaming regulations, only net proceeds may be used for education for the organization's and/or membership's well being.

7. A "fishing derby association" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes, but does not include an organization formed or operated for gaming or

gambling purposes. By definition, a fish derby means a contest in which prizes are awarded for catching fish.

Kenai River Sportfishing Association previously reported to the Internal Revenue Service on its 990 forms that it does not engage in any political activity during prior time periods. KRSA has in past years certified that the organization did attempt to influence public opinion

on legislation or referendums.

More recently, the current executive director on Feb. 19 testified to the Kenai River Special Management Area board that less than 2 percent of the program expenses go toward efforts to influence the Board of Fish. While this action raises the question over the annual amount of these political expenditures, KRSA has continually failed to report these expenditures on its 990 forms.

Additional questions continue to rise concerning why this gaming event is using revenues under program expenses to influence legislation and promote allocation. The most recent point is that during testimony on House Bill 396 both the executive director and KRSA's president identified themselves as members from Kenai River Sportfishing Association as they attempted to influence legislation by testifying against a House bill, which is currently in the Alaska State Legislature.

The department regulates political activities by nonprofit organizations that raise revenues from charitable gaming events, if those organizations are filing their reports. The salary of the director and expenses for their volunteer board members who continually attend Board of Fish meetings and hold legislative receptions for elected officials here in Juneau raises a stark alarm as to where these funds are being generated. Which brings into question the honored reputation of the organization and possibly its members.

These questions and a great many others have been raised during this investigation in regard to the accounting of the Kenai River Classic revenues which generates its entirety of funds from a public resource within a critical habitat area with little to no government oversight. Up to now KRSA enjoyed strong political support until one lone legislator had the fortitude to make a stand against the political consequences and questionable actions of the KRSA board of directors.

*Rep. Kelly Wolf, R-Kenai, represents District 33 in the Alaska House of Representatives. He was elected in 2002.*

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Web posted Sunday, April 18, 2004

**Wagoner bill gets KRSMA backing**

By **MATT TUNSETH**  
*Peninsula Clarion*

Something's better than nothing.

The Kenai River Special Management Advisory Board on Thursday endorsed a bill in the Alaska State Senate that would add approximately 536 acres to the Alaska State Parks management area < but not before board members voiced their frustration that the inclusion falls short of what they'd like to see added.

"I find it to be woefully inadequate," said board member Paul Shadura.

"This is another frustrating wall we've hit here," echoed board member Jim Golden.

The board members directed their remarks toward staff members from the office of Sen. Tom Wagoner, R-Kenai, who were participating in the meeting via teleconference. Wagoner is the sponsor of the bill in question < SB 190.

Their comments seemed to strike a nerve with Wagoner's staff, who wondered aloud about board members' assertion that the bill doesn't go far enough to add lands into the special management area.

"If it wasn't worth your trouble, why did you bring it to the senator?" asked Mary Jackson, a member of Wagoner's staff.

Jackson's remarks seemed to cause board members to soften their position.

"That's 500 acres more than we had before," pointed out board member Jeff King.

Another issue for the board to consider regarding the bill had to deal with the provision that state officials not be allowed to serve on the board. Currently, the board includes seats for members of state and federal agencies. Under Wagoner's bill, those seats would remain, but agency officials would be included as ex-officio members without the right to vote.

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On that issue, the board seemed to feel that although agency officials provide valuable input, taking away voting privileges was less of an issue than getting at least some land added to the management area.

"To me, the land inclusion < even if it is 500 acres < trumps that," King said.

Shadura, however, said he believes agency representatives provide valuable input and shouldn't be excluded from being full members.

"One of the reasons I come to this board is to be able to sit with federal and state agencies," he said.

Jackson said Wagoner believes agency members do provide valuable input, and that the ex-officio provision would still allow those agency members to lend their expertise to the board.

"It's just flat stupid to turn away talent," she said.

In the end, the board decided the inclusion of the 536 acres was worth its endorsement and voted 10-3 to relay the message to Wagoner that he should continue pushing the bill.

The board, however, did not speak in favor of a potential addition to the bill being pushed by Rep. Kelly Wolf, R-Kenai. Jackson said Wolf is seeking to include a provision that would disallow "derby-style fishing events" that attract large amounts of anglers to the river.

Board members who spoke to Wolf's proposal were unanimous in their belief that the proposal is a thinly-veiled attack on the Kenai River Sportfishing Association's annual Kenai River Classic, and they took issue with Wolf's desire to include a provision that seems to have little to do with the original bill.

"I don't like it to be tagged on to the bill," said board member Ted Wellman, who likened Wolf's proposal to comparing apples and oranges. "I think that's inappropriate."

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# STATE OF ALASKA

## Cooper Landing Fish & Game Advisory Committee

Frank H Murkowski, Governor

Bill Stockwell, Chair  
PO Box 721  
Cooper Landing, AK 99572-0721  
Phone: 595-1540

March 20, 2004

Honorable Carl Morgan  
Chair, House Community and Regional Affairs Committee  
State Capitol Building,  
Juneau, AK 99801-1182

SENT BY FAX 2 PAGES

SUBJECT: Senate Bill 190

Dear Chairman Morgan and Committee Members

At our meeting of March 18, 2004, the members of the Cooper Landing Advisory Committee voted unanimously to OPPOSE Section 4 of Senate Bill 190, changing the KRSMA Advisory Board Membership, and asked me to relay this opposition to our District Representative Paul Seaton which I did. His office informed me that your House Committee would be holding a hearing on March 23 and suggested that I contact you direct with our concerns.

The Cooper Landing AC SUPPORTS adding Lower River Lands to KRSMA, Section 2 of SB 190, and hope more additions can continue to be added in the future. However, we strongly feel that the proposed change to the voting membership of the KRSMA Advisory Board, Section 4 of SB 190, is certainly not in the best interest of Community of Cooper Landing and is bad policy for all Alaskans. We ask you to OPPOSE this section and AMEND TO REMOVE Section 4 before enactment of SB 190.

Cooper Landing is an unincorporated community whose residents depend on the health of the Kenai River Watershed and its adjacent land for their economic well-being and quality of life. While our voting population is small, much of the river's resources and viable habitat are in our area. The Community has depended for many years on good working relationships with ADF&G, DNR Lands and Parks, the Kenai National Wildlife Refuge, and the Forest Service for the management of our area's most vital resources. As proposed in Section 4 of SB 190, these land managers and resource experts would no longer vote on Kenai River issues vital to Cooper Landing while leaving the Municipalities of Soldotna, Kenai and the Borough as voting members. This change would shift the power to manage the Kenai River to the population base at the mouth of the river and be to the detriment of the residents of the Upper Kenai River and all Alaskans and other users in general.


PAGE 2 COOPER LANDING ADVISORY COMMITTEE MARCH 20, 2004

We believe that the changes proposed in Section 4 of SB 190 violate the original intent of the 1984 KRSMA Act. In Section 1, Findings, of the 1984 Act it states: "A multitude of state and federal agencies with jurisdiction over various aspects of the river and adjacent public lands creates a labyrinth of regulation without effectively preventing the river's deterioration. The river's fishery and wildlife are its most important resources. The highest priority uses of the river and its adjacent land derive from its fishery and wildlife which must be protected and preserved to ensure their renewability and continued usefulness. To solve the river's problems a need exists for a comprehensive management plan for the river and its adjacent land and for coordinated management."

Coordinated management of the Kenai River Watershed requires that all land and water managers, resource managers, users and the public have equal seats at the table and that all have an equal voice and vote. To do otherwise violates the original findings of the act. Depriving all governmental entities except municipalities from vote is both unwise and poor public policy. While the health the Kenai River is of importance to adjacent municipalities, their expertise is not in management of fish and wildlife habitat and resources but in the development of land for growth and tax purposes. To leave the municipalities adjacent to the Kenai River as the only governmental entities with vote certainly seems to violate the finding that "The river's fishery and wildlife are its most important resources."

Thank you for allowing us this opportunity to provide testimony on Senate Bill 190 and thank you for examining our concerns and comments. We ask that Section 4 of SB 190 be removed in fairness to all Alaskans. If you need more information or have any questions, please contact Bill Stockwell by phone or fax at 595-1540.

Sincerely,



Bill Stockwell, Chair

cc: Representative Paul Seaton  
ADF&G Board Support

SB

227



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

February 10, 2004

Senator Gary Stevens  
State Capitol  
Juneau, AK 99801

Re: Support for SB 227

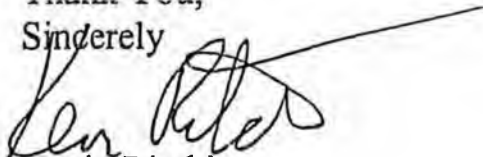
Dear Senator Stevens,

Thank you for introducing SB 227. This bill primarily removes the unfunded state mandate that municipalities hold special elections, and allows municipalities, with citizen input, to make their own decision regarding the scheduling of an election.

In times of great fiscal stress, allowing communities and citizens to save money by making local decisions on local issues is much appreciated.

The concept of the bill is strongly supported in the 2004 AML Policy Statement. The bill was also discussed again fully and endorsed by the AML Local Government Legislative Subcommittee on February 9, 2004.

Thank You,  
Sincerely



Kevin Ritchie  
Executive Director

By:	FNSB Assembly
Introduced:	02/12/04
Adopted:	02/12/04

FAIRBANKS NORTH STAR BOROUGH

RESOLUTION NO. 2004-15

A RESOLUTION SUPPORTING HB 322, "AN ACT REQUIRING A MUNICIPAL INITIATIVE OR MUNICIPAL REFERENDUM TO BE SUBMITTED TO THE VOTERS AT THE NEXT REGULAR ELECTION OCCURRING NOT SOONER THAN 60 DAYS AFTER CERTIFICATION OF THE INITIATIVE OR REFERENDUM PETITION" AND SB 227, "AN ACT RELATING TO MUNICIPAL INITIATIVE AND REFERENDUM ELECTIONS".

WHEREAS, AS 29.26.270 and 29.26.280 mandate that a municipality conduct a special election on initiative and referendum questions respectively when no regular election occurs within 75 days after certification of a sufficient initiative or referendum petition; and

WHEREAS, special elections are costly, consume staff time for extended periods, and result in a much lower turnout than the municipality's regular election; and

WHEREAS, it is difficult to obtain election officials and polling locations for special elections; and

WHEREAS, many municipality's are struggling to provide basic services to its citizens and cannot easily afford the cost of an unbudgeted special election; and

WHEREAS, HB 322 and SB 227 do not effect the right of the local governing body to call a special election if necessary.

NOW, THEREFORE, BE IT RESOLVED that the Assembly of the Fairbanks North Star Borough supports the passage of HB 322 and SB 227 and urges the State Legislature to expeditiously move these bills through their respective bodies.

BE IT FURTHER RESOLVED, that copies of this resolution shall be sent to the Honorable Governor Murkowski and the Alaska State Legislature.

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**ALASKA ASSOCIATION OF MUNICIPAL CLERKS**

**RESOLUTION NO. 2004-01**

**A RESOLUTION OF THE ALASKA ASSOCIATION OF MUNICIPAL CLERKS  
SUPPORTING SB 227 AND HB 322 RELATING TO MUNICIPAL INITIATIVE  
AND REFERENDUM ELECTIONS**

**WHEREAS,** municipal clerks in the State of Alaska strongly support the right of its citizens to petition the government through the initiative and referendum process; and

**WHEREAS,** AS 29.26.270 and 29.26.280 mandate that a municipality to conduct a special election on initiative and referendum questions respectively when no regular election occurs within 75 days after certification of a sufficient initiative or referendum petition; and

**WHEREAS,** there is no such requirement that mandates a special election for initiative and referendum questions submitted to the state for state elections; and

**WHEREAS,** special elections are costly, consume staff time for extended periods, and often result in a much lower turnout than the municipality's regular election; and

**WHEREAS,** it is often difficult to obtain election officials for multiple elections; and

**WHEREAS,** many municipalities are struggling to provide basic services to its citizens and cannot easily afford the cost of an unbudgeted special election; and

**WHEREAS,** in recognition of these factors, Senator Gary Stevens and Representative Paul Seaton have sponsored SB 227 and HB 322 respectively to eliminate the mandate that a municipality call a special election after certification of an initiative or a referendum petition; and

**WHEREAS,** nothing in these bills eliminates the local government option to call a special election if one is deemed necessary or advisable by the governing body;

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ALASKA ASSOCIATION OF MUNICIPAL CLERKS (AAMC):**

**SECTION 1.** That AAMC supports the passage of SB 227 and HB 322 and urges the State Legislature to expeditiously move these bills through their respective houses.

**SECTION 2.** That a copy of this resolution shall be mailed to each member of the Alaska Senate and the Alaska House of Representatives.



## KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA • 99669-7599  
BUSINESS (907) 262-8608 FAX (907) 262-8615  
EMAIL: assemblyclerk@borough.kenai.ak.us

LINDA MURPHY, MMC  
BOROUGH CLERK

April 29, 2003

The Honorable Paul Seaton  
Alaska State House of Representatives  
State Capitol, Room 428  
Juneau, AK 99801-1182

RE: Requested Changes to Title 29 (Municipal Initiative and Referendum Elections)

Dear Representative Seaton:

It was a pleasure to meet with you in Juneau last week. As I discussed with you at that time, I am hopeful that you will sponsor legislation for the 2004 session that will eliminate the requirement that municipalities call a special election to consider an initiative or referendum brought forward by the voters. As you know, special elections are costly and generally result in a lower voter turnout than the regular election. In addition, most measures brought forward using the initiative or referendum process are not so pressing in nature that they could not wait for the regular municipal election. Of course, nothing in the change I am suggesting would prohibit the governing body from calling a special election if the Council or Assembly wished to have the matter considered in a more timely manner.

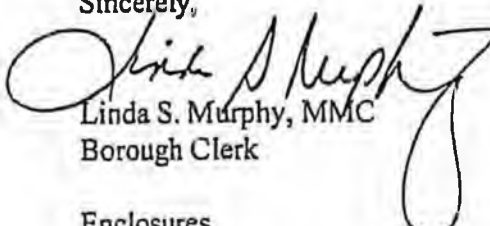
This amendment is supported by the Alaska Municipal League and is included in its 2003 policy statement. I have enclosed that portion of the policy statement for your information. I have also enclosed some language I drafted to make the requisite changes to AS 29.26.170 and AS 29.26.180.

You can expect support for this legislation from members of the Fairbanks North Star Borough delegation. Last year, the FNSB had a total of 46 petitions filed over a period of 4 months. Although these petitions resulted in only one special election (at a cost of \$35,000), there was the potential for many more at great cost to the municipality.

I will be asking Senator Gary Stevens to sponsor a companion bill in the Senate. It is my hope that this bill can be prefiled in both houses this winter and move expeditiously through the legislature.

Thank you once again for your assistance.

Sincerely,

  
Linda S. Murphy, MMC  
Borough Clerk

Enclosures



AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE CISSNA  
COMMUNITY & REGIONAL AFFAIRS COMMITTEE  
TO: CSSB 227 (STA)

- 1 Page 1, Line 12-Page 2, Line 6; delete all material
- 2
- 3 Renumber sections accordingly

*was objects  
failed 2-4*

SESSION ADDRESS:  
Alaska State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4925  
Fax: (907) 465-3517  
Toll Free: 1-800-821-4925

*Senator Gary Stevens*  
*Alaska State Legislature*

INTERIM ADDRESS:  
112 Mill Bay Road  
Kodiak, Alaska 99615  
(907) 486-4925  
Fax: (907) 486-5254

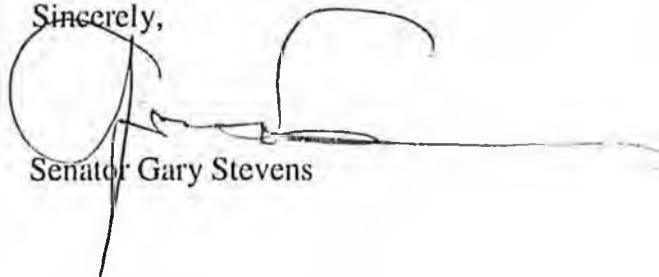
**Memorandum**

DT: April 7, 2004  
TO: Representative Carl Morgan, Chair  
House Community and Regional Affairs Committee  
FR: Senator Gary Stevens  
RE: SB 227

I would like to request a committee hearing at your earliest convenience on Senate Bill 227, "An Act relating to municipal runoff elections and to municipal initiative and referendum elections."

Thank you for your consideration of this request.

Sincerely,



Senator Gary Stevens



SB

260







Support for SB 260

Subject: Support for SB 260

Date: Sun, 14 Mar 2004 14:35:35 -0900

From: carlson family <carlson1@gci.net>

To: Representative\_Pete\_Kott@legis.state.ak.us

CC: Ben Stevens <Senator\_Ben\_Stevens@Legis.state.ak.us>

We strongly urge you to fully support Senate Bill 260. History depicts an appalling lack of representation & communication between AMATS & the public it purports to serve. It is time to insure a better balance & fiduciary decision making when our shrinking dollars must stretch farther.

Thank you for your time and consideration.

Sincerely,

Michael P. Carlson  
Barbara L. Carlson  
6050 W. Dimond Blvd.  
Anchorage, AK 99502  
248-2503

Subject: SB 260

Date: Sat, 13 Mar 2004 11:40:29 -0900

From: Dave Carter <davedane@gci.net>

To: Senator\_Ben\_Stevens@legis.state.ak.us

CC: Representative\_Lesil\_McGuire@legis.state.ak.us

Dear Senator Stevens: As a resident of Anchorage, and as one of your constituents, I wanted to send along this message of support for your efforts to reform the AMATS process to increase public oversight of how federal transportation funds are spent in Anchorage. Frankly, I think AMATS is a mystery to most Anchorage residents. I support your idea to increase the membership of AMATS' policy board from five to seven, and to have members of the board selected by the municipality, the governor's office, and the legislature. Anchorage is and will be facing a number of very significant decisions regarding transportation issues over the next several years. A broader base of board membership, as well as a board which seeks more public input (and reasonable advance notice to the public to allow for reasonable public input) should be encouraged.

Please feel free to share this email with your colleagues in the Senate. By cross-copy of this email to Representative McGuire, I would encourage her to share this email with her colleagues in the House.

David S. Carter  
1920 Shore Dr  
Anchorage, AK 99515

**Subject:** Senate Bill 260

**Date:** Thu, 05 Feb 2004 13:10:34 -0900

**From:** Dee Essert <dessert@gci.net>

**To:** Ben Stevens <Senator\_Ben\_Stevens@legis.state.ak.us>

**CC:** Norman Representative Rokeberg <Representative\_Norman\_Rokeberg@legis.state.ak.us>,  
Lesil McGuire <Representative\_Lesil\_McGuire@legis.state.ak.us>,  
Dan Sullivan <sullivand@ci.anchorage.ak.us>

Senator Ben Stevens,

I and many others in the Sand Lake area support Senate Bill 260. Our roads in the Sand Lake area are inadequate, filled with pot holes and have no curbs and shoulders on West Dimond ( between Sand Lake), Kincaid and others.

However, the MOA Traffic Department continues to build and propose to build trails. I support a majority of my gasoline tax going to roads and if trails are built, they should be built along the roads, not in the mud flats.

AMATS has representatives from the Alaska Railroad, the Port, etc. It is reasonable to seat a Legislator on AMATS. It is reasonable to include ROW and construction costs for trails. It we are going to be asked to vole road bonds, we need to know the total costs of what the MOA is spending on enhancements.

Dee Essert

# Alaska State Legislature

SENATOR  
BEN STEVENS  
716 WEST 4TH AVENUE  
ANCHORAGE, AK  
99501-2133  
(907) 269-0200  
FAX (907) 269-0204



*Session:*  
STATE CAPITOL  
JUNEAU, AK  
99801-1182  
(907) 465-4993  
FAX (907) 465-3872

## Senate District N

### House CS for CS for Senate Bill 260 (TRA) am: Metropolitan Planning Organizations

Federal transportation planning regulations require the designation of metropolitan planning organizations (MPO) for urbanized areas with a population of at least 50,000. The current regulations provide the latitude for states and MPOs to establish the voting membership of the policy body, encouraging participation and cooperation by local elected officials, transportation officials and appropriate state officials. The membership of policy committees vary across the United States, at least one of which includes state legislators.

Alaska currently has two federally designated metropolitan planning organizations: the Fairbanks Metropolitan Area Transportation System (FMATS) and the Anchorage Metropolitan Area Transportation Solutions (AMATS). The House Committee Substitute for Senate Bill 260 establishes under state statute, metropolitan planning organizations (MPO) and the makeup of the policy committee for the Anchorage Metropolitan Planning Organizations. The bill also improves Alaska's highway planning statutes by streamlining the design requirement for highway upgrades and new construction projects within an MPO.

The AMATS policy committee currently consists of five members: the Mayor of Anchorage, two members of the Anchorage Assembly, and representatives from both the State Departments of Transportation and Environmental Conservation. To broaden the representation for Anchorage residents, the House CS for Senate Bill 260 increases the members of the policy committee from five to nine by adding two Anchorage-area legislators as non-voting members and two members of the public; one to be designated by the Municipality of Anchorage and one appointed by the Governor. The bill also provides the Governor the flexibility to appoint additional voting and non-voting members in the future, which is consistent with federal policy.

The Anchorage MPO policy committee has programmed over \$1.2 billion in federal funding for transportation projects, including state and municipal roads projects, since 1981. The current process of prioritizing and allocating this funding for transportation projects within Anchorage is difficult to understand and has long been the source of discontent among Anchorage residents. It's time to change the process to better address Anchorage's transportation needs and to be more responsive to the needs of the community.

# Alaska State Legislature

SENATOR  
BEN STEVENS  
716 WEST 4TH AVENUE  
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Session:  
STATE CAPITOL  
JUNEAU, AK  
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## Senate District N

### Sectional Analysis House CS for Senate Bill 260 (TRA) am

**Section 1** amends A.S. 19.10.160 to improve the planning requirements of major transportation projects for Fairbanks and Anchorage. Current statute requires planning for major highway upgrades and new construction projects to be designed to adequately serve planned future traffic over a certain time period once the project construction has been completed. Since the planning and design phase and the environmental requirements can take several years, this requirement is difficult to achieve. The amended bill modifies this planning language so that designing transportation projects is more practical.

**Section 2** amends AS 19.20 by adding the following new sections:

**Sec. 19.20.200. Establishment of metropolitan planning organizations.** This section defines metropolitan planning organizations as an urbanized area with a population of more than 50,000 persons when required for participation in a federal transportation program.

**Sec. 19.20.210. Membership of the policy boards of metropolitan planning organizations.** This section establishes the composition of the policy board to consist of at least seven voting members and two non-voting members: Four voting members shall be designated by the municipality who are located within the metropolitan area, one of whom shall be a public member. Three members shall be appointed by the Governor, one of whom shall be a public member residing within the metropolitan area. The two public members shall serve three-year terms. The two non-voting members shall consist of one Anchorage-area Representative and one Anchorage-area Senator. This section also provides the Governor the flexibility to appoint additional voting and nonvoting members to the policy board, if needed in the future, which is consistent with federal code.

**Sec. 19.20.220. Approval of local transportation improvement plan.** This section allows the Governor to approve a Transportation Improvement Program (TIP) or TIP amendment prepared by an MPO policy board that is organized in accordance with the applicable provisions of AS 19.20.220.

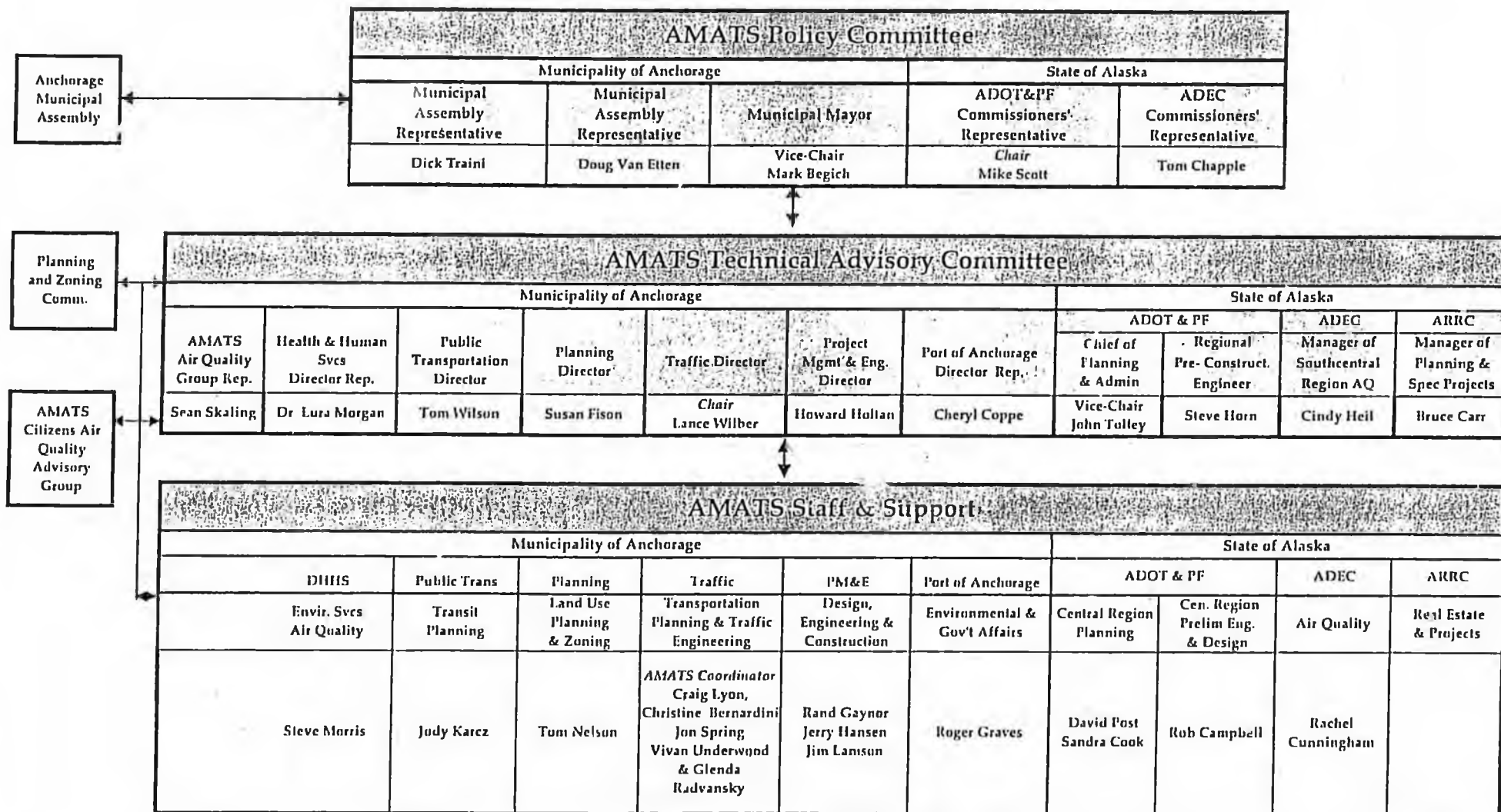
**Section 3** adds a new section to the uncodified law stating that the governor shall enter into an agreement with the Municipality of Anchorage to restructure the policy board for the Anchorage metropolitan area in conformance with AS 19.20.210. It also adds intent language that the restructuring be done in a manner that does not constitute a redesignation of the Anchorage MPO under federal law.

**Section 4** provides an immediate effective date for section 1 of this bill.

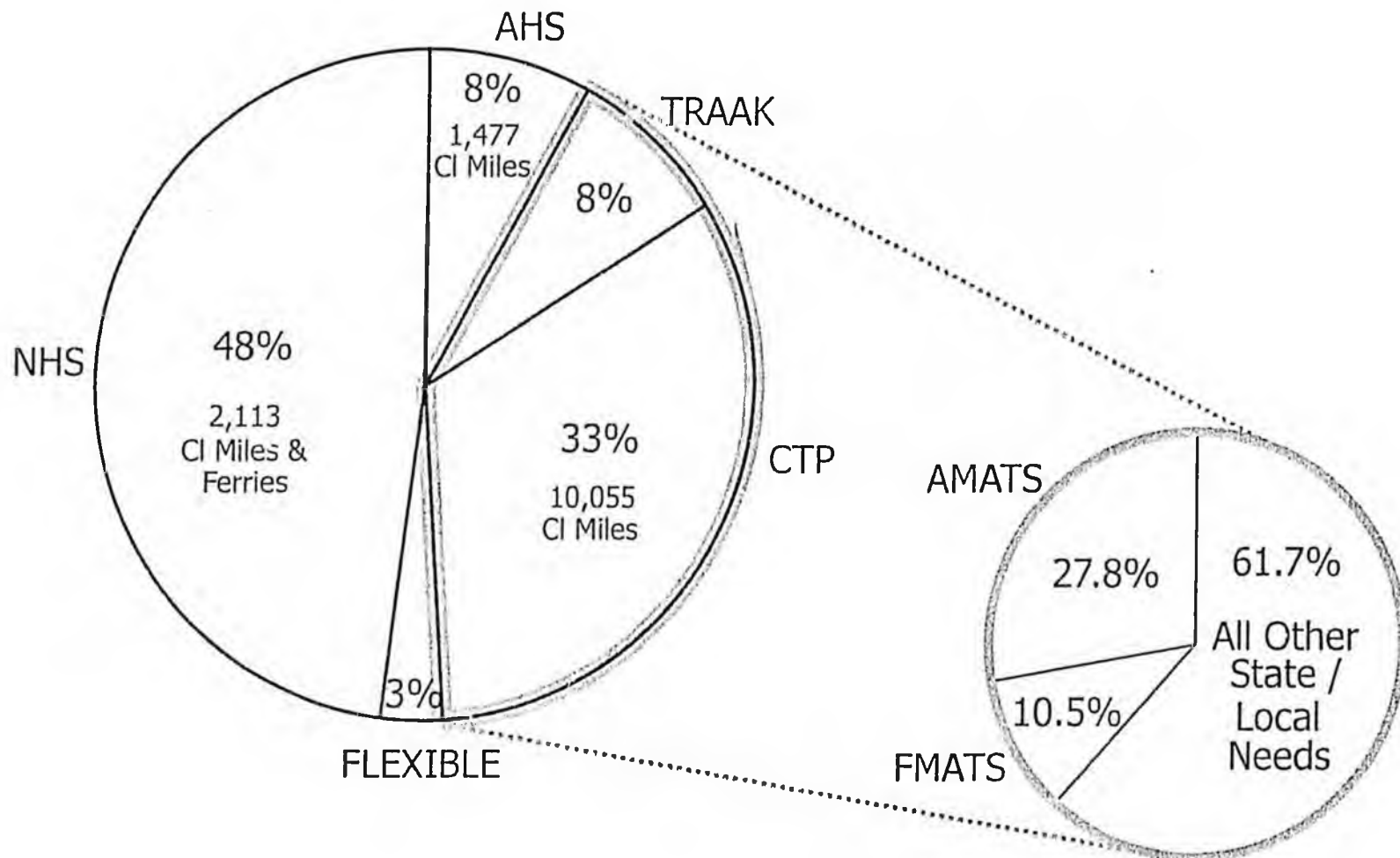
**Section 5** provides an effective date of July 1, 2005 for Section 2 of this bill.

# Anchorage Metropolitan Area Transportation Solutions

## AMATS Organizational Chart



# Distribution of Federal-Aid Transportation Formula Funds Per 17 AAC 05.155-200



Municipality of Anchorage  
and  
State of Alaska

AMATS  
INTER-GOVERNMENTAL OPERATING AGREEMENT  
for  
TRANSPORTATION AND AIR QUALITY PLANNING

In The Metropolitan Area of the  
Anchorage Metropolitan Planning Organization

ERRATA SHEET  
AMATS Operating Agreement  
September, 2002

Page 2, Section 1, Sentence 1: Change to read: "The parties to this Agreement are the State of Alaska (herein the "State") and the Municipality of Anchorage (herein the "Municipality) as the designated Metropolitan Planning Organization (herein also "MPO")." Delete second sentence.

Page 3, Section 3.1, Metropolitan Planning Organization Designation: Change "Study" to "Solutions".

Page 3, Section 4, "ASSEMBLY": Change "6" to "15".

Page 5, Section 5.2, Sentence 1, Line 5: Change "therefor" to "therefore".

**Municipality of Anchorage  
and  
State of Alaska**

**INTER-GOVERNMENTAL OPERATING AGREEMENT  
for  
TRANSPORTATION AND AIR QUALITY PLANNING**

**SECTION 1 – PARTIES TO THIS AGREEMENT**

The parties to this Agreement are the State of Alaska and the Municipality of Anchorage (herein the "Municipality"). The Municipality the designated Metropolitan Planning Organization (herein after also "MPO").

**SECTION 2 – PURPOSE**

This agreement is entered into in accord with 23 USC §134 to provide the structure and process for the continuing, cooperative, and comprehensive consideration, development and implementation of transportation and air quality plans and programs for intermodal transportation in the Metropolitan Planning Area (MPA) herein after of Anchorage, Alaska, 23 USC §134 states in pertinent part:

It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems. 23 USC §134(a).

**SECTION 3 – LEGAL AUTHORITY**

**3.1 Federal Transportation Planning Statutes**

23 USC Sections 104(f) and 134 and the Urban Mass Transportation Act of 1964, as amended, provide funding and require designation of a metropolitan planning organization for urbanized areas of at least 50,000 population to carry out a transportation planning process and receive federal funding. Those Statutes require the State and the Municipality to coordinate the planning and construction of all urban transportation facilities with a continuing, cooperative, and comprehensive transportation planning process.

*Welda, the sentence is on page 2.*

### 3.2 Metropolitan Planning Organization Designation



On April 8, 1976 the Governor of the State of Alaska designated the Municipality of Anchorage as the Metropolitan Planning Organization and identified the Anchorage Metropolitan Area Transportation Study ("AMATS") Policy Committee as the then existing policy body providing the direction of transportation planning in the MPO in accordance with Federal law.

### 3.3 Federal Air Quality Regulations

Air Quality Title 42, USC 7504 et. seq. requires each areawide air quality planning agency to prepare an areawide air quality plan providing for attainment of National Ambient Air Quality Standards ("NAAQS"). Alaska Statutes Chapter 46.14 requires the Alaska Department of Environmental Conservation ("ADEC") to develop a State Implementation Plan ("SIP") providing for the attainment of the NAAQS. The Municipality has been designated by the Governor as an air quality planning agency and has adopted an Air Quality Plan, which is the local component of the SIP. The MPO is the planning agency that coordinates transportation related air quality planning within the Municipality. The Unified Planning Work Program includes the annual preparation of a Reasonable Further Progress Report on Air Quality and review of the goals of the Air Quality Plan.

## SECTION 4 - DEFINED TERMS

As used in this Agreement, the following words and phrases shall have the meanings ascribed unless the context clearly indicates otherwise:

"ADEC" is the State of Alaska Department of Environmental Conservation

"ADOT&PF" is the State of Alaska Department of Transportation and Public Facilities

"AIR QUALITY PLAN" is the Anchorage component of the State Implementation Plan for Air Quality regarding air quality strategies in non-attainment areas.

"AQAG" is the Air Quality Advisory Group.

"AMATS", stands for Anchorage Metropolitan Area Transportation Solutions ("AMATS"). Note: the "S" previously meant, "Study" however it has been changes to "Solutions".

"ANCHORAGE" or "MUNICIPALITY" is the Municipality of Anchorage, a unified, home rule, political subdivision of the State of Alaska.

"ASSEMBLY" is the Anchorage Municipal Assembly, the legislative, governing body of the Municipality comprised of 11 elected public officials representing 6 local Assembly election districts within the Municipality.

"DOT" or "USDOT" is the United States Department of Transportation

"DBE" is Disadvantaged Business Enterprises.

"EPA" is the United States Environmental Protection Agency.

"FHWA" is the Federal Highway Administration, United States Department of Transportation.

"FTA" is the Federal Transit Administration, United States Department of Transportation.

"*LRTP*" means and shall be referred to as the AMATS' adopted Long-Range Transportation Plan and all revisions thereto adopted as the MPO's Metropolitan (official intermodal) Transportation Plan for the Metropolitan Planning Area reviewed and approved in accordance with this Agreement.

"*MAJOR AMENDMENTS*" are significant changes that will include any new project or change to an existing project in the Transportation Improvement Program or Long-Range Transportation Plan that requires an air quality conformity determination, an Environmental Impact Statement or an Environmental Assessment, or promotes a change in the type of required environmental document or a project that is deleted from the TIP or LRTP. Major amendments will include a minimum 30-calendar day review period.

"*METROPOLITAN PLANNING AREA*" ("*MPA*") means the geographic area determined pursuant to 23 USC §134(c) in which the MPO carries out the development and implementation of transportation and air quality plans and programs under 23 USC §134 and the Federal Transit Act §8, respectively, shown in *Attachment #1* to this Agreement.

"*MPO*" is the Municipality of Anchorage acting in its capacity as the Metropolitan Planning Organization.

"*MINOR AMENDMENT*" A minor amendment includes a new project or a change in an existing project in the existing Transportation Improvement Program or Long-Range Transportation Plan that does not prompt a change in the type of environmental document or that does not require an Air Quality Conformity Determination. No public involvement comment period is required.

"*NAAQS*" is the National Ambient Air Quality Standards.

"*NON-ATTAINMENT AREA*" is that portion of the Municipality, which has been designated as an air quality non-attainment area in the Federal Register (area shown in *Attachment #2* to this Agreement).

"*OFFICIAL STREETS AND HIGHWAYS PLAN*" establishes the location, classification and minimum right-of-way for those streets and highways required to accommodate the highway transportation needs of the community.

"*PL*" is Metropolitan Transportation Planning funds authorized by 23 USC §134.

"*P&Z (or "Planning and Zoning") Commission*" is the Municipality's Planning and Zoning Commission.

"*PM10*" is the EPA designated standard for air particulates, 10 microns or greater in size.

"*POLICY COMMITTEE*" or "*AMATS POLICY COMMITTEE*" is the AMATS Policy Committee established in Section 5.2 of this Agreement for the cooperative decision making in accordance with this Agreement.

"*SIP*" is State of Alaska Air Quality Implementation Plan.

"*STATE*" is the State of Alaska.

"*STIP*" is the Statewide Transportation Improvement Program, which is the State's three year, state-wide, financially constrained intermodal program of transportation projects. The STIP is consistent with the statewide transportation plan, and incorporates the TIP. It is developed pursuant to 23 USC §135(f), and is approved by the Commissioner of ADOT&PF, the Governor, FTA and FHWA.

"TAC" is or "AMATS" "TECHNICAL ADVISORY COMMITTEE" the AMATS Technical Advisory Committee established in Section 5.3. of this Agreement for the cooperative decision making in accordance with this Agreement

"TEA21" stands for the Transportation Equity Act for the 21<sup>st</sup> Century. It is the federal legislation that guides all transportation plans and improvement programs supported with federal funds. TEA21 was signed into law by President Clinton on June 8, 1998 to carry on the intent of its predecessor the Intermodal Surface Transportation Efficiency Act of 1991.

"TIP" is the Transportation Improvement Program that is the AMATS' three year, financially constrained, intermodal program of transportation projects consistent with the AMATS LRTP for funding Metropolitan Area transportation improvements, updated at least every two years and approved by the AMATS Policy Committee and the Governor in accordance with this Agreement.

"UPWP" is the Unified Planning Work Program that is the annual operating program detailing funding and responsibilities for transportation planning and air quality work tasks within the Metropolitan Area. The UPWP provides for a continuing and comprehensive transportation planning process carried out by AMATS.

## SECTION 5 – ORGANIZATION AND RESPONSIBILITIES

### 5.1 AMATS

AMATS is the balanced, cooperative, coordinated and comprehensive process between the Municipality (MPO) and State for the development of an AMATS Long Range Transportation Plan, a Transportation Improvement Program and the Unified Planning Work Program.

5.1.1 In order to receive and expend federal funding for transportation and air quality improvements there must be cooperation between the State and the MPO as required by federal regulations. Therefore, the purpose of AMATS is to provide the framework and mechanism for the MPO and the State to jointly develop and implement transportation and air quality plans and programs, which will assure compliance with State and Federal transportation planning and air quality requirements. The duties and responsibilities within AMATS are further described in this section.

5.1.2 AMATS is responsible for the metropolitan transportation planning process within the urbanized boundaries in accordance with the Unified Planning Work Program approved by the Policy Committee, the FHWA, and the FTA. The AMATS responsibilities hereunder are subject to appropriations.

### 5.2 AMATS Policy Committee

There is hereby established a five (5) member AMATS Policy Committee (herein also the "Policy Committee") consisting of two Anchorage Assembly members appointed by the Assembly and serving at its pleasure in accordance with Anchorage Charter §12.03, the Mayor of Anchorage or designee, and the Commissioner of the ADOT&PF and Commissioner of ADEC or designees therefor designated to serve by and at the pleasure of the Governor. The Chairman of the Policy Committee shall be the ADOT&PF member. A Vice-Chairman shall be the Mayor to act as the presiding officer in the absence of the Chairman. Each member of the Policy Committee shall have one vote. Actions of the Policy Committee shall be by a majority vote of its total authorized membership (three or more votes) voting in person by the appointed member.

### 5.2.1 The Powers and Duties of the AMATS Policy Committee

The AMATS Policy Committee shall have overall responsibility for the implementation of this Agreement, coordination of the AMATS' efforts and responsibilities of the TAC, the AQAG, the Planning and Zoning Commission's advisory functions, the Assembly review and recommendations on the AMATS LRTP and TIP and the ultimate development and adoption of the AMATS UPWP, the AMATS TIP and the AMATS LRTP. Specifically, the Policy Committee shall:

- (1) Give policy direction to the Technical Advisory Committee ("TAC") in their function of reviewing all AMATS related transportation plans, programs and funding requirements. The Policy Committee shall give direction and approval to the transportation planning effort performed by the State or the Municipality, which shall be reviewed by the TAC.
- (2) Formulate transportation planning policy and objectives and monitor the implementation of the Metropolitan Planning Area transportation and air quality plans to ensure conformance with the State and Federal transportation and air quality and local land use guidelines and requirements.
- (3) Direct, adopt and update the Unified Planning Work Program elements, allocating responsibility for planning activities/studies between the State and the Municipality, in accordance with the guidelines set forth by the Metropolitan Planning Regulations (23 CFR Subpart C, Part 450,) to the extent applicable to AMATS including major planning issues to be addressed, available resources, operating procedures, funding estimates, timetables, and task status for the Air Quality Plan and any subsequent amendments or revisions.
- (4) Prepare and approve all joint financial participation and related operating agreements. Arrange for third party financial participation in the air quality planning process, including other funding sources such as the Federal Environmental Protection Agency ("EPA").
- (5) Provide overall direction to the Technical Advisory Committee, the AQAG, and the transportation planning and air quality planning staffs, including but not limited to, guidance on project alternative plan formation, assessments, development of feasible strategies and report preparation.
- (6) Ensure public involvement throughout the AMATS' transportation and air quality planning process, including, but not limited to, the use of the Planning and Zoning Commission and the AQAG as a citizens' forum and for the scheduling of public hearings.
- (7) Produce and publicize issues, findings, periodic progress reports, conclusions, other pertinent planning process information and the Federally required AMATS documents.
- (8) Ensure the preparation, for the Assembly's review and recommendation, of a Transportation Improvement Program (TIP) and a transportation plan (AMATS LRTP) conforming to Federal law. The Policy Committee shall

annually endorse the AMATS' transportation plans and programs and certify that the AMATS' planning process is being carried out in conformance with all pertinent requirements of 49 USC 5303 et seq; 42 USC 7504, 7506(c) and (d), and 23 CFR Subpart C. of Part 450 applicable to AMATS. In accordance with Anchorage Ordinance 97-139(S), to the extent feasible, the AMATS LRTP shall be consistent with the Municipality's long range transportation plans.

- (a) In accordance with Anchorage Ordinance 97-139(S), the AMATS LRTP and amendments thereto subject to 23 CFR 450.322 shall be submitted to the Assembly for its review and recommendations prior to final action thereon by the Policy Committee. The Assembly shall review and by resolution adopt recommendations on the AMATS LRTP and such amendments within 45 days after the AMATS LRTP or such amendments are introduced for Assembly action, unless the Policy Committee and the Assembly otherwise agree to a longer period of time. If the Assembly fails to submit such a resolution to the Policy Committee within 45 days after such introduction or within the time otherwise agreed to by the Policy Committee and the Assembly, then the requirement for an Assembly resolution prior to final action on the AMATS' LRTP by the Policy Committee is waived.
  - (b) The TIP and major amendments thereto under 23 CFR 450.326 shall be submitted to the Assembly for its review and recommendations prior to final action thereon by the AMATS Policy Committee. The Assembly shall review and by resolution adopt recommendations on the TIP or such amendments within 30 days after the TIP or such amendments are introduced for Assembly action, unless the AMATS Policy Committee and the Assembly otherwise agree to a longer period of time. If the Assembly fails to submit such resolution to the Policy Committee within 30 days after such introduction or within the time otherwise agreed to by the Policy Committee and the Assembly, then the requirement for such Assembly resolution prior to final action by the Policy Committee is waived. To the extent feasible, the Assembly review and recommendation shall be scheduled to occur annually during the same time period as consideration of the municipal capital improvement budget.
  - (c) The statements, reports, and recommendations of the Policy Committee, the TAC and the Municipal Planning and Zoning Commission on the AMATS LRTP and the TIP shall be forwarded to the Assembly for consideration in connection with such LRTP and TIP.
- (9) Provide guidance for the development of an Air Quality Plan and recommend it to the Municipal Assembly for adoption and municipal submittal to the ADEC for incorporation into the State Air Quality Implementation Plan.
  - (10) Annually review this Agreement, the Air Quality Plan and progress made towards the achievement of National Ambient Air Quality standards throughout the area.

### 5.3 Technical Advisory Committee (TAC)

There shall be an eleven (11) member Technical Advisory Committee ("TAC") consisting of the Municipality's Directors of the Departments of Planning, Project Management & Engineering, Health and Human Services, Port of Anchorage, Public Transportation and Traffic, or such Director's designees; the ADOT&PF Chief of Central Region Planning and Administrative Services or designee, ADOT&PF Regional Pre-Construction Engineer or designee; the ADEC Manager of the Southcentral Region Air Quality Program, or designee; a representative from the Alaska Railroad Corporation or designee; and a member of the AMATS Air Quality Advisory Group designated by said Group. The Chairman of the TAC shall be the Municipality's Director of Traffic. A Vice-Chair shall be the ADOT&PF, Chief of Central Region Planning and Administrative Services to act as the presiding officer on the absence of the chairman. Each member of the TAC shall have one vote and all actions of the TAC, including recommendations to the Policy Committee, shall be by a majority vote of the total authorized number of members (six or more votes).

5.3.1 The AMATS Technical Advisory Committee is subordinate to and shall report to the AMATS Policy Committee. The TAC shall be responsible for the AMATS' transportation plans and programs and air quality plan development, reviews and recommendations to the Municipal Planning and Zoning Commission, the Assembly and AMATS Policy Committee.

5.3.2 The Technical Advisory Committee shall:

- (1) Provide assistance and recommendations to the Policy Committee, the Municipal Planning and Zoning Commission and the Assembly regarding the effects of transportation and air quality plans and programs on the plans of member agencies.
- (2) Provide technical assistance, advice and recommendations to the Policy Committee, the Municipal Planning and Zoning Commission and the Assembly in fulfilling their responsibilities for the continuing, comprehensive and cooperative transportation and air quality planning processes within the Metropolitan Planning Area.
- (3) Prepare and maintain the Metropolitan Planning Area's transportation plans, technical studies, joint planning process certification, air quality plan and other transportation and air quality programs.
- (4) Provide assistance, advice, and periodic reviews of the progress and findings of on-going projects and recommendations to the Policy Committee in its review of Federal and State funded transportation projects and programs.

### 5.4 Municipality's Planning and Zoning Commission

The Municipality's Planning and Zoning Commission shall provide a public forum for and advisory reports to other AMATS committees and groups and officials in its review and consideration of citizen comments and recommendations on suggested transportation and air quality plans and programs.

As a body representative of the community at large, the Municipality's Planning and Zoning Commission shall provide land use advice and transmit advisory recommendations on the AMATS LRTP, for the Anchorage Bowl and Chugiak/Eagle River areas, and the TIP to the Assembly and the Policy Committee prior to final Assembly review and recommendations and Policy Committee final approval.

The Planning & Zoning Commission will also consider the:

- (1) Official Streets and Highways Plan;
- (2) Air Quality Plan;
- (3) The UPWP; and
- (4) Other relevant transportation plans to include but not limited to Trails, Congestion Management, and Freight Mobility etc.

#### 5.5 Air Quality Advisory Group

An AMATS Air Quality Advisory Group ("AQAG"), shall be an air quality technical advisory group consisting of experienced professional, technical and public persons with scientific, professional or technical training in or experience with air quality issues relating to AMATS. AQAG shall be a public forum for and provide advisory comments and recommendations to other AMATS bodies on AQAG issues relevant to the AMATS LRTP, TIP, UPWP, and the Air Quality Plan.

##### 5.5.1 Responsibilities of the Air Quality Advisory Group

The AQAG shall:

- (1) Review and submit advisory recommendations to the AMATS Technical Advisory Committee and the AMATS Policy Committee regarding air quality planning proposals developed by the AMATS TAC; and
- (2) Assist in facilitating public participation in the AMATS air quality planning process.

#### 5.6 The Municipal Assembly

As the governing (legislative) body of the Municipality the Assembly shall:

- (1) In accordance with Anchorage Ordinance 97-139(S) and this Agreement, timely review and by resolution make recommendations on the AMATS LRTP required by 23 USC §134(g) prior to final approval by the AMATS Policy Committee and its transmittal to the Governor for informational purposes pursuant to 23 USC §134(g)(5); and
- (2) In accordance with Anchorage Ordinance 97-139(S) and this Agreement, timely review and by resolution make recommendations on the TIP required by 23 USC 134(h) prior to final approval by the Policy Committee and its transmittal to the Governor for approval and incorporation into the STIP.

#### 5.7 Metropolitan Planning Area under 23 USC 134(c).

The Metropolitan Planning Area (formerly referred to as the "Study Area") specified by 23 USC §134(c) shall be the geographical area shown on Attachment #1 to this Agreement incorporated hereto by reference. Provided such boundaries conform to the requirements of 23 USC §134(c), the MPO and the Governor may mutually agree to change the boundaries of the Metropolitan Planning Area.

## SECTION 6 –KEY PLANS, PROGRAMS

6.1 There are four primary planning or programming activities, which AMATS is responsible for developing. This section summarizes these key plans and programs, which include the Air Quality Plan, the AMATS Long-Range Transportation Plan, the AMATS Transportation Improvement Program and the AMATS Unified Planning Work Program.

### 6.2 Air Quality Plan

6.2.1 The Municipality, with full assistance from the State and all other cooperating agencies, is responsible for developing and updating an Air Quality Plan, which shall:

- (1) Identify areawide objectives and policies required to attain the NAAQS for carbon monoxide (CO) and particulate matter for the Metropolitan Planning Area;
- (2) Inventory technical, physical, and other air quality planning data;
- (3) Analyze alternatives and establish strategies designed to attain the NAAQS for the Metropolitan Planning Area;
- (4) Address any other air quality issues required by the EPA or US Department of Transportation;
- (5) Provide for the implementation of the adopted air quality strategies as expeditiously as practical; and
- (6) Provide for and show Reasonable Further Progress towards achievement of carbon monoxide and particulate matter standards within the non-attainment area.

### 6.3 AMATS Long-Range Transportation Plan

The Municipality, in cooperation with the State, is responsible for developing or updating an AMATS Long-Range Transportation Plan that shall:

- (1) Follow the latest federal planning requirements, (as prescribed in October 1993, 23 CFR Part 450, subsection 450.322).
- (2) In summary:
  - (a) Include the development of a transportation plan addressing at least a twenty-three year horizon with short and long range strategies/actions that leads to an integrated intermodal transportation system that facilitates the efficient movement of people and goods;
  - (b) Be reviewed and updated at least every three years;
  - (c) Be financially constrained;
  - (d) Meet air quality conformity requirements of the Clean Air Act; and
  - (e) Provide a minimum 30-day public comment period on plan development (draft document) and major amendments.

#### 6.4 Transportation Improvement Program

6.4.1. The Municipality, in cooperation with the State, is responsible for developing or updating the AMATS Transportation Improvement Program, which shall:

- (1) Follow the latest federal planning requirements, (as prescribed in October 1993, 23 CFR Part 450, subsection 450.324); and
- (2) In summary:
  - (a) Include capital transportation improvements and projects (roads, transit, pedestrian/bicycle, and congestion mitigation etc.) that are consistent with the AMATS Long-Range Transportation Plan;
  - (b) Cover a period of time not less than three years;
  - (c) Be reviewed and updated at least every two years;
  - (d) Be financially constrained;
  - (e) Provide an air quality conformity analysis;
  - (f) Provide a minimum 30-day public comment period on program development (draft program) and major amendments.

#### 6.5 Amendments to the AMATS Long-Range Transportation Plan (LRTP) and AMATS Transportation Improvement Program (TIP).

##### 6.5.1 A major amendment will include the following:

- Any new project in the AMATS LRTP or the AMATS TIP that requires an Air Quality Conformity Determination, an environmental impact statement (EIS), or an environmental assessment (EA).
- Any change in an existing project in the AMATS LRTP or the AMATS TIP that requires an Air Quality Conformity Determination, or promotes a change in the type of required environmental document
- Any project deleted from the AMATS LRTP or the AMATS TIP.

Major amendments will include a 30 calendar-day review period. When written and oral comments are received on the draft AMATS LRTP or the AMATS TIP, a summary, analysis, or report on the nature of the comments shall be made part of the final AMATS LRTP and /or AMATS TIP as part of the document or as an appendix. Major amendments will require Assembly action, as described in Section 5, and Policy Committee approval.

##### 6.5.2 A minor amendment or revision will include the following:

- Any change in an existing project that does not prompt a change in the type of required environmental document.
- Any new project that does not require an air quality conformity determination, an EIS, or an EA.

Minor amendments to the AMATS LRTP or AMATS TIP do not require Assembly action or AMATS Policy Committee approval and no public review will be required. The AMATS Technical Advisory Committee with its responsibility to maintain existing plans and programs while meeting the overall policy direction set by the AMATS Policy Committee shall approve minor amendments. Notification of such amendments will be provided as information to the Assembly and AMATS Policy Committee following the AMATS Technical Advisory Committee action.

#### 6.6 AMATS Unified Planning Work Program

6.6.1. The Municipality, with full assistance from the State and all other cooperating agencies, is responsible for developing or adjusting the AMATS Unified Planning Work Program, which shall:

- (1) Describe all the transportation and air quality planning and operational activities to be completed in a calendar year;
- (2) Be developed in accordance with Section 7 of this agreement.

6.6.2 Changes in work assignments and studies to be performed to meet the air quality and transportation planning requirements may be made by the AMATS Policy Committee at such times and to such extent as deemed necessary. Total funds to be made available for the performance of said work and services shall not exceed the amount specified in the annual AMATS Unified Planning Work Program. Reimbursement will be made by ADOT&PF to the Municipality, in accordance with procedures stated herein, and shall be expended only on the AMATS Unified Planning Work Program approved by the AMATS Policy Committee, FHWA and FTA.

### SECTION 7 -- UNIFIED PLANNING WORK PROGRAM

#### 7.1 Unified Planning Work Program Preparation

No later than October 1 of each year, ADOT&PF shall submit to the Municipality in writing the amount of estimated Federal PL funds, and the required match ratios, to be made available to AMATS for the next UPWP. ADOT & PF shall recommend work tasks and its budget for tasks in which it participates. AMATS shall develop and implement a UPWP public involvement program and prepare a UPWP with the full cooperation of ADOT&PF and members of the AMATS TAC, AQAG and P&Z. Discussion between ADOT&PF and the Municipality shall take place to determine how the proposed tasks can be accomplished in the most efficient and effective manner. The AMATS UPWP shall be reviewed by the AMATS TAC, approved by the AMATS Policy Committee and forwarded for concurrent approval by FHWA and FTA prior to any of the approved work being performed.

#### 7.2 Unified Planning Work Program Changes/Amendments

Changes in funding levels for tasks, or changes in tasks, shall be requested as soon as possible after the need for such changes is recognized. Generally, after appropriate AMATS approvals, major revisions shall go through the same approval procedures as for the AMATS UPWP. Minor revisions shall be forwarded to ADOT&PF for approval. Formal ADOT&PF policy and procedures govern specific revisions of tasks funded by PL funds. The Municipality shall be responsible for the performance of tasks in the AMATS UPWP, as revised. No charges which exceed the adopted AMATS UPWP budget will be eligible for reimbursement until the AMATS UPWP budget is adjusted as per the following procedures.

- 7.2.1 Major AMATS UPWP Adjustments (no additional funding required). Cumulative adjustments to the element budget amounts that exceed 20 percent of the original approved element budget, individual changes of \$25,000 or more to element budgets, or significant scope changes require the concurrence of the AMATS Policy Committee, ADOT&PF, and FHWA before becoming effective.
- 7.2.2 Minor AMATS UPWP Adjustments (no additional funding required). Changes to element budgets that do not affect the total program funding level and are 20 percent or less of the original element budget amount may be submitted to ADOT&PF for approval without formal AMATS Policy Committee approval. Minor adjustments to funding levels among tasks and elements can be made while adhering to the AMATS Policy Committee's intent. The AMATS Technical Advisory Committee with its responsibility to "maintain" existing plans and programs while meeting the overall policy direction set by the AMATS Policy Committee shall approve minor adjustments. The AMATS Policy Committee will be notified of changes at the first AMATS Policy Committee meeting following ADOT&PF approval.
- 7.2.3 Program Total Funding Adjustments

Requests for additional program funding will require the approval of ADOT&PF, the Policy Committee, FHWA, and FTA.

#### **SECTION 8 – ASSIGNMENT OR TRANSFER OF WORK**

- 8.1 AMATS staff or the Municipality of Anchorage staff (depending on project management responsibility) shall provide a copy of a draft scope of work for consultant services for ADOT&PF review and approval. ADOT&PF shall submit that scope of work to ADOT&PF Headquarters staff and to the FHWA with a recommendation for final review and approval. No Request for Proposals can be issued until FHWA has approved the scope of work. If a private consultant is chosen to assist in preparing a pre-solicitation cost estimate for a future contract, that consultant is precluded from responding to the Request for Proposals.
- 8.2 The Municipality shall offer the ADOT&PF the opportunity to serve on the selection committee for all proposed contracts. The Municipality shall provide eight copies of all Municipal and consultant draft final work products to ADOT&PF for review and comment prior to review and approval by the AMATS TAC and/or AMATS Policy Committee.

#### **SECTION 9 – INSPECTION OF WORK**

ADOT&PF, as well as FHWA and FTA, shall at all times be accorded review and inspection of the work and shall at all reasonable times have access to the premises, to all data, notes, records, correspondence, and instruction memoranda or descriptions which pertain to the work involved in the AMATS UPWP.

#### **SECTION 10 -- ADDITIONAL AND SEPARATE WORK PROJECTS**

From time to time, ADOT&PF or the Municipality may desire one of the other parties to perform additional work projects for services separate and apart from those set forth in the AMATS UPWP. At such times, the requesting party will notify the other party of this intention, including a request for the specific work and/or services desired. If there is a willingness and ability to do the work or perform the services requested, written acceptance by the requesting party of the terms accepted shall constitute authority to proceed with the work and/or services requested. The requesting party shall pay for such work or services within a reasonable time after billing. Such billing shall be made pursuant to the terms agreed upon for each particular work project.

## SECTION 11 – PROGRAM REPORTING REQUIREMENTS

### 11.1 Reporting:

All information developed by the planning process shall be available upon request to each party within a reasonable time after development of such information. The Municipality, with the full support of the other parties involved, shall report regularly upon the status of such planning and progress made on associated documents. The reporting procedures shall include but not be limited to, the following:

### 11.2 Quarterly Reports:

A quarterly narrative progress report and financial statement shall be submitted by the Municipality to ADOT&PF no later than the 23rd day following the last day of each AMATS UPWP fiscal quarter, in order to meet the requirements of 49CFR 18.40 as supplemented by 23 CFR 420.113. Within 30 days of the last day of the fiscal quarter, ADOT&PF shall either review, and approve the report, or if found necessary, request modifications. ADOT&PF staff will forward the report to ADOT&PF Headquarters staff. It will be reviewed and forwarded to FHWA to meet the reporting requirements of 23 CFR, Part 420. If ADOT&PF staff request modifications, the report will be forwarded to ADOT&PF Headquarters staff as a draft report. The Municipality shall then convey a revised submittal to ADOT&PF no later than 40 days following the last day of each fiscal year quarter. ADOT&PF shall approve or request additional modifications to the re-submittal no later than 50 days following the last day of each fiscal year quarter. This final report shall serve as the basis for reimbursement, pending review and approval by FHWA.

11.2.1 In the financial statement of each quarterly report, the following data shall be included for each task: 1) current quarter expenditures, 2) fiscal year to date expenditures, 3) PL and local funds/in-kind expended to date, and 4) PL and local funds/in-kind remaining. The following information shall be included for the program summary: 1) current quarter expenditures, 2) fiscal year to date expenditures, 3) PL and local funds/in-kind expended to date, and 4) PL and local funds/in-kind remaining.

11.2.2 The narrative progress report shall include 1) a description of work accomplished during the quarter, 2) significant events (i.e. travel, training, conferences, and 3) milestones reached in sufficient detail to justify the quarterly expenditures. For each task, the percentage complete shall be given, how the scheduled completion date matches the program estimated date, as well as the estimated completion date. Explanatory information shall be provided if the estimated completion date differs from the date contained in the Unified Planning Work Program.

11.2.3 Quarterly reports prepared by the Municipality shall contain financial and narrative progress information concerning the disposition of PL funds and tasks for which PL funds have been made available. Completed reports and material emerging out of the tasks shall be identified in the quarterly reports and copies shall be attached. Six copies of each report with necessary attachments shall be forwarded to the ADOT&PF Central Region Planning Manager.

### 11.3 Final Fiscal Year Quarterly Report.

The final quarterly report for the AMATS UPWP fiscal year will contain an annual technical report concerning and summarizing the pertinent development, activities, and accomplishments of the tasks outlined within the Unified Planning Work Program of the past fiscal year. The annual technical report will be submitted within 90 days of the end of the fiscal year. The report will contain 1) a complete comparison of actual performance with established goal, 2) status of expenditures

comparing budgeted (approved) amounts with actual costs incurred; 3) identify overruns and underruns and all information being consistent with AMATS UPWP revisions.

#### 11.4 Significant Events.

Events that have significant impact on the work program shall be reported as soon as they become known. The type of events or conditions that require reporting include problems, delays or adverse conditions that materially affect the ability to attain program objectives. This disclosure shall be accompanied by a statement of the action taken or contemplated, and any state or federal assistance required resolving the situation.

#### 11.5 Other Reports.

Copies of formal reports, informal reports, and material emerging out of a task specified in the Unified Planning Program shall be governed by Section 9 of this agreement.

### SECTION 12 -- PLANNING REPORTS

#### 12.1 Planning Reports:

From time to time, ADOT&PF and the Municipality may publish reports, documents etc., upon completion of a portion and/or a phase of a particular planning element in the continuing transportation planning process. In order for the preparation and publishing of such reports to be eligible for participation of Federal funds, the AMATS TAC shall review the report, and four copies of the report in draft form must be submitted to ADOT&PF for review and comment.

#### 12.2 Publication

Publication by any party to the Agreement shall give credit to the other parties and FHWA. However, if any party or FHWA does not wish to subscribe to the findings or conclusion of the study the following statement shall be added:

"The opinions, findings, and conclusions expressed in this publication are those of the authors and not necessarily those of the [excluded party(ies) or the ] FHWA".

#### 12.3 Copies

Two (2) copies of the draft reports and four (4) copies of the final report shall be sent to FHWA through ADOT&PF for informational purposes. Two (2) copies of the draft and final reports should be sent through ADOT&PF to GTA for informational purposes. ADOT&PF, FTA and FHWA reserve license to publish, reproduce, or otherwise utilize any copyrighted material developed under this Agreement.

### SECTION 13 -- DIVISION OF COST AND PAYMENT

#### 13.1 Reimbursement

The maximum amount of Metropolitan Planning Funds available each year for reimbursement to the Municipality shall not exceed the budget approved in the AMATS UPWP or as amended. ADOT&PF will make reimbursement in accordance with the following procedures:

- (1) The Municipality shall submit to ADOT&PF a quarterly narrative progress report and financial statement, as defined in Section 11 of this Agreement.
- (2) Reimbursement will be made within 30 days after ADOT&PF receipt and approval of the quarterly narrative progress reports and financial statements, subject to Federal Planning Funds being made available and received for the allowable costs.
- (3) Within 60 days of ADOT&PF approval of the last quarter narrative progress report and financial statement for the fiscal year, ADOT&PF will close the AMATS UPWP account and request that an audit be performed.
- (4) The audit will be completed and final payment adjustments made within 120 days of the last quarter or to the extent possible.

#### 13.2 ADOT&PF Tasks:

The parties may agree that ADOT&PF can most efficiently and effectively perform a task or a portion of a task to be funded with PL funds in the approved UPWP. In such cases, ADOT&PF shall (1) provide the Municipality with all necessary documentation in order to permit the preparation of the reports required in Section 11 of this agreement, Program Reporting Requirements, (2) upon ADOT&PF approval of the quarterly narrative progress reports and financial statements, ADOT&PF shall submit a billing to FHWA for direct payment to ADOT&PF for approved AMATS UPWP costs, (3) ADOT&PF shall be reimbursed at the rate contained in the applicable Unified Planning Work Program, (4) ADOT&PF shall promptly provide the Municipality with copies of its billings and statements.

#### 13.3 Overruns:

The ADOT&PF and the Municipality acknowledge that they will receive benefits from the information developed by performance of the elements outlined in the AMATS UPWP. They agree to pay that portion of their element costs which exceed the total program funding level budgeted for the agency, as shown in the AMATS UPWP, without recourse to the other parties.

#### 13.4 Cost Limitations:

Reimbursement of administrative and operational costs will be made without profit or markup. These costs shall be limited to:

- (1) Direct salaries and wages, with payroll taxes and fringe benefits at actual costs, or if prorated to be allocated on an equitable basis;
- (2) Telephone charges and necessary travel limited to program specific charges;
- (3) Overhead or indirect costs as approved annually in the respective AMATS UPWP line item budget and verified by audit. Such overhead shall be allocated on an equitable basis. Eligibility shall conform to the provisions of 23 CFR 420.111(c);
- (4) Training as approved specifically in the AMATS UPWP or otherwise specifically approved by ADOT&PF and FHWA.

#### 13.5 Rate of Reimbursement:

Reimbursement shall be at the rate specified and contained in the applicable AMATS UPWP.

13.6 Financial Accounting Level:

The expended funds will be accounted for at the task level (110, 120, 130, etc.)

13.7 Fiscal Year and Quarters:

The AMATS UPWP fiscal year will coincide with the municipal fiscal year of January 1 to December 31. The AMATS UPWP fiscal year quarters shall end on the last day of March, June, September, and December.

**SECTION 14 -- PROCUREMENT, MANAGEMENT, AND DISPOSITION OF PROPERTY**

Procurement and management of property acquired for the program, including disposition of property if the program is discontinued, will be in accordance with 41 CFR Part 1 - 8.5, 48 CFR, and 49 CFR Part 18.31 - 33.

**SECTION 15 -- AUDIT PROCEDURES**

15.1 In addition to the requirements stated in this section, requirements for audit as defined in 23 CFR Part 420 and 49 CFR Part 18 will be used as guidelines. Also, with respect to contract cost principles and procedures, 48 CFR Part 31 will be used as guidelines.

15.2 Each participating agency will maintain complete records of all manpower, materials and out-of-pocket expenses, and will accomplish all record keeping in accordance with the following procedures:

15.2.1 Each participating agency will furnish ADOT&PF copies of all certified payrolls which shall include the hourly rate for each employee working on the project during the reporting period. In addition, a loaded rate factor will be shown in a manner compatible with existing MOA procedures. The load rate factor is subject to adjustment based upon audits occurring during the life of this Agreement.

15.2.2 Time Sheets

Individual time sheets will be maintained reflecting the daily total amount of hours worked and amount of time spent on each task within the program. It is imperative that the hours be traceable to the task.

15.2.3 Materials

Copies of invoices shall support costs of any purchased materials utilized on this project.

15.2.4 Out-of-pocket Expenses

Copies of receipts shall support all expenses.

15.2.5 Record System

The record system will be such that all costs can be easily traceable from all billings through the ledgers to the source document. Each expenditure must be identified with the task within the current approved AMATS UPWP.

15.2.6 Cost Overruns

When expenditures are anticipated to overrun in one AMATS UPWP work element, the procedures for budget changes as outlined in Section 7.2 must be followed.

- 15.3 The Municipality will prepare overhead cost allocation plans within 60 days of each fiscal year, submit a copy to ADOT&PF annually, and maintain these plans on file. ADOT&PF will review the Municipal annual cost allocation plan and forward its recommendations on the overhead rate to FHWA. The cost allocation plan will be completed and forwarded by the Municipality to ADOT&PF at the end of each calendar year. Upon receipt of FHWA's concurrence, this rate will be reflected in the following year's UPWP and the PL billings.
- 15.4 Each consultant contract or professional services agreement, in which the Municipality or ADOT&PF engages, may require a specific audit for that project or agreement. The award of any such construction related engineering design services contract must be made in conformity with applicable Federal and ADOT&PF contracting procedures including ADOT&PF Procedure 10.02.010, and related PSA Handbook, or based on acceptable alternative contracting procedures approved by ADOT&PF and FHWA. This requirement is in addition to any agency-wide audit conducted pursuant to 23 CFR Part 12 - Single Audit Requirements.
- 15.5 The AMATS Program is to be audited annually by ADOT&PF Internal Review auditors to insure adequate coverage. ADOT&PF may opt to request audits be performed every other year. ADOT&PF and the Municipality and/or its subcontractors under this Agreement shall maintain all records and accounts relating to its costs and expenditures for the work during any fiscal year for a minimum of three (3) years following receipt of the final payment, and shall make them available for audit by representatives of ADOT&PF, FHWA and FTA at reasonable times. The Municipality shall maintain records in a form approved by ADOT&PF. Final payment is defined as the final voucher paid by FHWA to ADOT&PF based on an audit. A Municipal request to close out a fiscal year or project account does not constitute final payment.
- 15.6 Any review, which does not meet Federal requirements, will be resolved between ADOT&PF and the Municipality. The financial records relating to a AMATS UPWP year may be closed out once FHWA accepts the audit and final payment adjustments have been made.

#### **SECTION 16 – COMPLIANCE WITH TITLE VI, CIVIL RIGHTS ACT OF 1964**

- 16.1 The Municipality hereby agrees as a condition to receiving any Federal financial assistance from the US Department of Transportation, to comply with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 42 USC. 2000d - 2000d-4 hereinafter referred to as the "Act") and all requirements imposed by or pursuant to Title 49 CFR, US Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the US Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations"), 49 CFR Part 26 Participation of Disadvantaged Business Enterprises in Department of Transportation financial assistance programs (see Section 14 of this document), and the Americans with Disabilities Act and other pertinent directives to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or activity for which the Municipality receives Federal financial assistance from the US Department of Transportation, including FHWA and FTA, and hereby gives assurance that it will promptly take any measure necessary to effectuate this Agreement. This assurance is required by 49 CFR Part 21, subsection 21.7A(1),
- 16.2 More specifically, and without limiting the above general assurance, the Municipality hereby gives the following specific assurance with respect to the project: