

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT PALMER**

BUTTE AREA RESIDENTS)	
CIVIC ORGANIZATION,)	
APPELLANT,)	
v.)	Superior Court No.
TOM IRWIN, COMMISSIONER, ALASKA)	NOTICE OF APPEAL
DEPARTMENT OF NATURAL RESOURCES,)	
)	
APPELLEE)	
_____)	

Pursuant to AS 44.62.560 and Alaska Rule of Appellate Procedure 602(a)(2), Butte Area Residents Civic Organization (BARCO), hereby files this Notice of Appeal appealing the Final Decision of the Commissioner of the Alaska Department of Natural Resources rejecting Appellant’s and other organizations’ and individuals’ Requests for Reconsideration of the Knik River Public Use Area Management Plan (KRPUA Plan).

- I. The Commissioner’s decision to adopt this plan went into effect and became a final order and decision on October 27, 2008. The Commissioner chose not to reconsider his September 26, 2008 decision to adopt the plan; therefore, all requests for reconsideration (approx. 50) that were received by the Commissioner were denied. A copy of the Final Decision and Supporting Documents, which are clarified by and incorporated by reference into the Final Decision are attached as Exhibit A. A copy of HB 307 (AS 41.23.180-AS 41.23.230), the legislation creating the KRPUA and giving the Commissioner the responsibility for management in Sec. 41.23.190, is attached as Exhibit B. **STATEMENT OF POINTS ON APPEAL**

Butte Area Residents Civic Organization raises the following points on appeal:

- A. The Commissioner erred by misinterpreting the purpose and intent of the underlying legislation, HB 307, disenfranchising both the public at large and residents of the adjoining communities of Butte and South Knik River from their enjoyment of the full

spectrum of public resources and recreation.

- B. The Commissioner misinterpreted the purpose and intent of underlying legislation, HB 307, by allowing continued destruction of trails and habitat, and contamination of waterbodies including the bed of the Knik River, contrary to the law.
- C. The Commissioner failed to protect nearby residents, their properties, their opportunities for economic growth, and the enjoyment of their homes and community from trespass and adverse spillover effects from the KRPUA, contrary to law, including but not limited to: documented dangers of fire, vandalism, nuisance noise, gunfire and loss of air quality.
- D. The Commissioner is unreasonable and demonstrating extreme disregard for residents, quiet recreational users, and resident and migratory wildlife by allowing public shooting areas in potentially dangerous and inappropriate locations.
- E. The Commissioner was arbitrary and unreasonable by not utilizing the tools provided by the enabling legislation, HB 307, including the ability to charge user fees that would control access, provide sanitary facilities, strengthen law enforcement to protect responsible users, and protect adjoining private properties, public lands and natural resources from ongoing criminal trespass and abuse.
- F. The Commissioner erred gravely by arbitrarily deciding to mitigate historic and ongoing documented destructive and illegal damage to wetlands, anadromous streams, wildlife and waterfowl habitat with signage and education for 5 years rather than immediate on-the-ground enforcement of regulations.
- G. The Commissioner arbitrarily and unreasonably misinterpreted and failed to comply with the purpose of HB 307 by neglecting to provide and enhance non-motorized recreation opportunities .
- H. The Commissioner failed to identify incompatible uses as required by legislation HB 307.
- I. The Commissioner's decision will adversely affect the water quality and potentially the water supply for residents in the Butte area.
- J. The Commissioner showed gross neglect to state and federal laws by allowing the waters of the Knik River at high flood stage to enter the community through breaches cut into the stream bank by motorized recreation activity.
- K. The Commissioner failed to address or mitigate documented existing damage to the vegetative cover on the Knik River Flats, the Jim Creek Dunes, anadromous streams, springs and other areas, and similarly failed to address the loss of air quality.

- L. The Commissioner, contrary to state and federal laws, failed to protect nesting and migrating waterfowl, songbirds and other avian species, neglected to protect year-round moose habitat and arbitrarily chose to ignore the recommendations for this area contained in multiple agency reports and 25 years of scientific and government studies of national significance.
- M. The Commissioner, contrary to law, subverted the public process by yielding to legislative and special interest influence outside the public forum for the purpose of creating the first motor park in the State of Alaska.
- N. The Commissioner's actions were negligent and disrespectful to the public by not providing a copy of the Final KRPUA Management Plan when issuing the Final Decision.

II. RELIEF REQUESTED

Because the Final Decision has misinterpreted the enabling legislation and is arbitrary, unreasonable and contrary to law, Butte Area Residents Civic Organization requests an order from the Court that the Commissioner of the Alaska Department of Natural Resources revise the Knik River Public Use Area Management Plan and remedy the issues brought forth in the stated Points of Appeal.

III. APPELLANT

Butte Area Residents Civic Organization's address is hereby submitted as required by Appellate Rule 602(b)(1):

Butte Area Residents Civic Organization
P.O. Box 34
Palmer, Alaska 99645

Butte Area Residents Civic Organization was formed in year 2004 to protect and improve the quality of life and economic opportunities for residents. The group is currently organizing as a not-for-profit corporation.

Respectfully submitted this 24th day of November, 2008.

Gregory S. Nilsson,
Co-Chair, Butte Area Residents
Civic Organization.
P.O. Box 34, Palmer AK 99645