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Subject: HB 371/SB 211 Comments

Dear Senators and Representatives:

As a retired State of Alaska, DNR land manager with over 33 years of service, and as a born and raised Alaskan, I offer the following comments on SB 211 and HB 371.

I would like to begin my comments by providing some perspective. Any mention to DNR in this email is meant to reflect my perspective of DNR based upon my experience, not the Department's perspective.

The Department of Natural Resources is a multiple use state agency. As such it evaluates and manages the land and resources in "trust" for the residents of Alaska and all state agencies. An example of this is that the DNR evaluates the impacts of all actions on state land, including the impacts on neighboring residents and commercial uses, access concerns, fish and wildlife impacts, and others in determining whether or not an action is in the state's interest.

The DOT's philosophy is that if a project is funded by the legislature then it is in the state's best interest and whatever needs to be done to facilitate that project is therefore in the state's best interest as well. This point of view reflects DOT's role as an agency that is highly focused and project-oriented. DOT is not a multiple use agency set up to address the multiple use resource issues DNR is constitutionally required to address. It is simply not DOT's role or function to consider multiple land issues.

DNR as a state agency should support projects that are funded by the legislature and facilitate the project, but should do so while creating a process for individuals and companies impacted by DOT projects to participate in determining how those projects can move forward in ways that are beneficial not only for DOT's project, but also for other people using Alaska's resources. DNR's management of material sites, for example, makes it possible for DOT to extract the material they need, while also providing material from the same sites to other agencies, individuals, and industry. The DNR has supported multiple use by encouraging that most sites remain ungated for public recreational use. DNR also makes it possible for the Division of Forestry to use material sites to access state land for timber sales and to provide staging areas for fire suppression efforts, and for the Division of Parks to gain access to any material they may require. DNR is also involved in establishing specific operating requirements in material sites like limiting hours of operation in sites located next to campgrounds. These are all examples of the ways DNR's multiple use management supports DOT projects while also protecting other uses of state land.

The DNR provides DOT with a variety of authorizations for their activities. These include easements/rights-of-ways for highways and access to material sites, Inter-Agency Land Management Assignments or ILMAs for airports, harbors, and maintenance sites, and authorizations for material sites. In recent years statute changes have significantly streamlined the process for material sales. These changes have already reduced the time required to provide DOT with material sale contracts. While some DOT material sales continue to take longer to process, these sites typically present complex issues because they are located within rivers or floodplains. DOT could significantly reduce DNR's time to process these material sale applications by respecting the process and providing the agencies with hydrological information outlining the expected impact of their activities in rivers and floodplains. This analysis is required under both federal law for federally-funded projects and state policy for state-funded projects, but is rarely provided by DOT. Delays in completing DOT applications for material sales in rivers and floodplains is often due to the significant problems that have already developed in these sites and the need for additional information from DOT to address the hydrologic issues that arise in in-river and floodplain sites.

Before I retired, DNR and DOT were directed by the Governor's Office to work on ways to streamline the material sale process. DOT wanted DNR to, in short, provide unlimited material for DOT projects for an unlimited time frame as the legislature provided funding for a highway project, therefore anything associated with that project was in the state's best interest. Many options were discussed to include transferring title to DOT for sites and/or authorizing sites under an ILMA. The DNR, DMLW, Northern Region evaluated approximately 20 material sites for transfer under an ILMA. The process included ADFG, Forestry, and Parks. Of the 20 sites, DNR determined that one or two sites were without issues and could be authorized under an ILMA to DOT.

The other sites had public access issues, ADFG issues such as riparian zones, third party needs for gravel and public use issues that were more suited to DNR management.

The outcome of this project was not to DOT's liking so DOT suggested that another option was to issue DOT a material sale contract with an unlimited term and unlimited volume. Now, it is apparent that DOT would rather not work with another state agency and instead has circumvented the DNR by submitted a bill through the Governors Office that would do exactly what they could not do by working with the state agencies to find a solution. This is extremely convenient for DOT as protocol dictates that DNR staff can not speak freely about the bill as they must support the Governor's bill. As such, it is up to the public to speak to the bill.

The Transportation Committee has already heard testimony from Dick Mylius, a former Director of the Division of Mining, Land and Water.

Dick's testimony is spot-on and should be fully taken into account in deliberations on this bill. This bill gives DOT unlimited and unrestricted use of state land for DOT's purpose and DNR shall transfer to DOT "whatever" DOT wants and desires.

This bill also gives DOT the ability to dispose of state land that it acquires under this bill or return it to DNR. Under existing statutes, DOT returns to DNR any state land it acquired from DNR. This does happen on occasion, but rarely. When it does happen, it is because there is an opportunity to divest DOT's interests that have become complicated by unauthorized third party uses. In order for DOT to divest state property, it would seem appropriate that statutes that parallel DNR statutes related to disposals of state property be set up. In fact, the Alaska Constitution and subsequent statutes and regulations have been developed to articulate what is required for the state to dispose of state land. But then why create a new process for DOT to perform this function when there is an existing state

agency already set up to transfer property to the public for private or municipal uses with existing authorities.

I also want to note for the record that under the bill as currently written, DOT will have authority to enter onto any state land as state land is not defined to preclude legislatively designated areas.

I am not sure what the fiscal note is attached to this bill, but DOT will definitely require additional personnel to properly manage all aspects of this bill. The survey requirements alone are staggering, as most of the hundreds of material sites throughout the state are not currently surveyed. Rhetorically, why not provide DNR with additional funding to properly manage material sites and state land in general rather than strip it of its duties.

DNR is the state agency set up to manage public resources for all of Alaska. It is the multiple use agency that addresses public concerns through an open public process. Granted this takes time to accomplish but doesn't the public deserve that time that it takes to make an informed decision rather than what appears to be a gigantic land grab for DOT for DOT's purposes without any checks and balances.

Given the concerns surrounding this bill, I would request that the legislative branch provide the opportunity for additional public comment or table the bill until a later session. The bill was introduced on March 7 (Friday), and public testimony was held on March 11 (Tuesday).

I doubt that many people have had a chance to read the bill or to prepare comments. Given the significant changes to land management proposed by this bill, an additional opportunity for public comment is warranted.

Thank you for your time and again, I strongly suggest that you address the concerns of Dick Mylius as presented in his testimony and follow-up correspondence.

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