

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

April 6, 2018

3:30 p.m.

MEMBERS PRESENT

Senator Cathy Giessel, Chair
Senator John Coghill, Vice Chair
Senator Kevin Meyer

MEMBERS ABSENT

Senator Natasha von Imhof
Senator Bert Stedman
Senator Bill Wielechowski
Senator Click Bishop

COMMITTEE CALENDAR

OVERVIEW: UNIVERSITY OF ALASKA'S LAND GRANT STATUS AND LAND USE
UPDATE

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

MILES BAKER, Associate Vice President
Government Relations
University of Alaska (UA)
Juneau, Alaska

POSITION STATEMENT: Provided overview of the University of
Alaska's (UA) land grant status and land use update.

CHRISTINE KLEIN, Chief
Facilities and Land Officer
University of Alaska (UA)
Anchorage, Alaska

POSITION STATEMENT: Discussed current trust land holdings.

WYN MENEFEER, Executive Director

Land Office
Alaska Mental Health Trust
Anchorage, Alaska

POSITION STATEMENT: Reviewed Mental Health Trust land holdings.

HEIDI HANSEN, Deputy Commissioner
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Provided background information on presentation.

CHRIS MAISCH, State Forester and Director
Division of Forestry
Department of Natural Resources (DNR)
Fairbanks, Alaska

POSITION STATEMENT: Provided update of Division of Forestry's intermingled-ownership land issues.

ANDY HARRINGTON, Associate General Counsel
University of Alaska
Fairbanks, Alaska

POSITION STATEMENT: Commented on potential land use issues.

ACTION NARRATIVE

[3:30:25 PM](#)

CHAIR CATHY GIESSEL called the Senate Resources Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Meyer, Coghill, and Chair Giessel. Senators Bishop and von Imhof were engaged in Senate Finance meetings and would attend if possible.

Overview: University of Alaska's Land Grant Status and Land Use Update

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CHAIR GIESSEL announced the committee had one item on its agenda today, the update from the University of Alaska's (UA) land grant status and its upcoming timber sale in Southeast Alaska in conjunction with the Department of Natural Resources (DNR). She said this committee began this legislative session hearing about the State of Alaska's timber opportunities, and the State Forester pointed out the lack of available timber to make sales economic.

CHAIR GIESSEL said the DNR is the state's land manager, but Alaska also has a public land grant university based in

Fairbanks. Land grant universities are not dissimilar to Alaska's Statehood Compact in that they were given lands to monetize to sustain the operations of the organization. Land grants are not only necessary for public universities to function, but also to unburden students from accessing higher education.

Last year, the committee heard from University President Jim Johnsen about the rock and a hard place that the land grant status finds itself between. The university never got its land entitlement from the federal government and the state constitution bars the state from transferring state land to the university.

CHAIR GIESSEL said today they would hear from the university about a new concept to solve this problem and hopefully work out a solution to these lands for Alaska's students. She welcomed Miles Baker to the committee.

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MILES BAKER, Associate Vice President, Government Relations, University of Alaska (UA), Juneau, Alaska, said last year they did some presentations to again "socialize this issue" in the legislature, because it had been a while, and he would give an update on recent efforts to resolve the land grant deficit.

He related that UA is part of a system of over 70 land grant universities around the country. These universities were granted federal land to sell to raise funds to establish and endow a college in every state. Ultimately, most of these became public universities offering a full range of educational opportunities. A few are private schools: MIT and Cornell University, for example. However, in this process, only Hawaii and Delaware received a smaller land grant, Hawaii because it received an appropriation from Congress in lieu of land. UA only received about 110,000 acres of its original entitlement, which leaves it due about 360,000 acres.

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Currently, Mr. Baker said, the University of Alaska has 150,000 acres of which 12,000 are used for educational research properties. He explained that the concept of land grant colleges started in the mid-late 1800s, and three federal laws established what the University of Alaska should have received. Of those three, Alaska ended up receiving land under the Sutherland Act of 1929. The reason for that is related to the problems the state has had with getting its statehood land, in

general, due to issues like surveying and remoteness. When discussions of statehood started, the university still had not received most of what should have been the entitlement under the original federal law.

Some of the statehood acts that were worked on in Congress conceived of giving the university as much as 10 million acres. Ultimately, the Statehood Act that passed actually repealed some of the early federal laws that would have ensured the university got its land. Congress's view was that the state was getting 103 million acres and that the state should, therefore, take responsibility for fulfilling the unfulfilled federal obligation to the university.

Since that time, the legislature has been extremely supportive; even the very first Alaska state legislature passed legislation to transfer 1 million acres to the University, but that was vetoed by Governor Egan at the time, largely because of an early concern about dedicating resources, violating the anti-dedication provision of the state constitution. And for some of those same reasons we find ourselves in this position today, the theory being if the university needs money and it needs to be appropriated, that it is a legislative responsibility.

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MR. BAKER said moving forward, complications with transferring land arose when land freezes were imposed by Congress as legislation from the Alaska National Interest Land Conservation Act (ANILCA) and Alaska Native Claims Settlement Act (ANCSA) went through. Post that period, the Alaska and federal delegation worked on several pieces of legislation to resolve it. Most recently, the legislature took action in 2005 when it actually listed the pieces of land that would come to the university. That resulted in a lawsuit by the Southeast Alaska Conservation Council (SEACC), and the Supreme Court ultimately ruled that transferring that land for the purpose of generating revenue would be a violation of the anti-dedication clause in the State Constitution.

MR. BAKER said today the university finds itself with about 150,000 acres. It has received other private land and municipal contributions, but the deficit of 360,000 acres remains. He said the university obviously feels strongly and has gotten strong direction from the legislature over the last few years that they need to monetize the lands they already have and to lower their reliance on state general funds. Filling this deficit is a top priority for the university.

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MR. BAKER said the university has been working with the federal delegation on possible opportunities, because the State Constitution has an exemption saying that dedication of land would be permissible if it is done to comply with a federal program's requirement for state participation. The feeling for quite some time has been that the state will not get new land from the federal government beyond the 105,000 acres and the federal government still feels that they extinguished their responsibility and it's really now the state's responsibility to fulfill the remaining obligation. But a federal program is needed to make this happen.

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MR. BAKER explained they have proposed a one-page concept for the DNR and the university to identify lands that either are existing DNR lands or that potentially are lands that the state has selected or top-filed that haven't been transferred from the federal government as part of the 5 million outstanding acres that are still due to the state. Many of these parcels are inholdings in national parks or in other conservation units that don't have a lot of monetary value but are of tremendous potential public benefit for the country. So, they are working on a program that would potentially allow them to transfer back to the federal government some of those lands that would allow the parks to be contiguously managed, a good fit for the federal government from that perspective, but it would obviously have to come with some sort of an exchange.

He said DNR is trying to work out the state's remaining selections on the administrative and procedural sides. The thought is that they would develop a piece of legislation that would resolve many of the remaining issues and it would include the university's land grant.

So, the change from last year's presentation is that they weren't looking at the concept of potentially identifying acres within the yet-to-be-transferred lands. Obviously, both DNR and the university are looking for the most attractive pieces of land to generate revenue, which is what they want to do with the University Trust.

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CHRISTINE KLEIN, Chief, Facilities and Land Officer, University of Alaska (UA), Anchorage, Alaska, discussed UA's current limited trust land holdings. There are two categories of land in

the 150,000 total acres; one is educational, and one is investment. Educational parcels are what the campuses reside on as well as a few research sites. The remaining 130,000 acres are investment (slide 9), the primary purpose being to monetize to provide positive revenue to the Trust Endowment.

MS. KLEIN pointed out that of those holdings, generally the largest portion are very remote and largely inaccessible. For example, about 10,000 acres are within the Wrangell Mountains and many others are on mountain tops, and one parcel is under Brady Glacier and has a mine claim on it. Other parcels are on the Alaska Peninsula. One of the largest holdings is in forested lands and they also have some subdivisions. They do not have oil and gas but a few active mining claims. They have very few, if any, urban parcels of any value to monetize.

She compared that to other land grant universities like the University of Washington (UW) that has two blocks of "some of the most valuable property" in downtown Seattle that they are able to monetize for their endowment and the University of Texas that has a percent of oil and gas revenues going to its endowment.

Slide 10 illustrated the trust's current land holdings broken down into six investment classes that the Board of Regents approved a couple of years ago in terms of their value. These parcels are being assessed to get the best value out of them, but most are very remote.

MS. KLEIN explained that the lands for land grant universities were granted by Congress for the specific purpose of being monetized to help universities be a little more self-sustaining. They are dedicated exclusively for the benefit of public education. Three acts of Congress set up these public university trusts and they are further memorialized in AS 14.40.

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MS. KLEIN showed how the money had been generated over the past years. Some lands were transferred to the university pre-statehood; however, the majority of revenue really didn't start to be generated until 1987/88 and that was from land sales; the most valuable parcels being sold off early. The second revenue generator has come from forest timber sales and gravel, rock, and peat extraction in Fairbanks. They have some commercial and private leases, and some limited potential for mining coal and gas. The land department has generated over \$210 million since 1987 from trust assets. The trust balance over the last 30 years

has fluctuated based on the market, but the one thing that has been fairly steady is the revenue generated by real property.

CHAIR GIESSEL remarked it's interesting that they started renting land in 1986 when people were leaving the state during a significant recession.

MS. KLEIN agreed and said that is when the department got very active in monetizing its lands. Slide 13 showed a comparison of land returns over the last 30 years. The university generated \$116 per acre overall while the trust timber harvest, which did not occur every year but were held continuously, accounted for \$2,735 per acre. Now not much land is left that is of much value in terms of monetization.

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MS. KLEIN said she gets many questions about just selling the land, but that is a one-time benefit and the endowment is very small, a quarter of what it was owed. And they found that many of the granted parcels had actually been harvested before they were given to the state and many of them are now forested with second growth timber that is still in their inventory; so that is a long-term sustainable program. They have a very positive forester stewardship program that has provided higher revenue and jobs in the local communities and a much greater return for the State of Alaska.

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SENATOR MEYER asked if they ran into opposition with their timber harvests.

MS. KLEIN answered yes, mostly from communities that were close to the parcels. She explained that most of their parcels are very small and isolated, so they are often combined with other private lands and lands from other agencies like the Division of Forestry, the Mental Health Trust, and the U.S. Forest Service, to do collaborative efforts.

SENATOR MEYER asked if people have left land to the university when they passed.

MS. KLEIN answered yes; they go through a process for their land to be earmarked or designated for certain things. A majority of the ones she has seen have been dedicated specifically to certain schools or programs. Very few go to the endowment in general.

MS. KLEIN said slide 14 illustrated some of their approximately 17,000 acres of forested parcels across Alaska that could actually be harvested. Over \$50 million of their endowment is from timber receipts over a 16-year period, and that has been their highest-return investment. These are primarily second-growth forests that are harvested on rotation cycles. When they put a tract up for sale, only part of it is actually harvested based on the type of timber, the species, the age, the number of flukes, the condition, market rates, and factors like that. A couple of sites are Coffman Cove, Icy Bay, Mitkof Island, Whipple Creek, Blank Inlet, Edna Bay, and Nenana. They try to do one to two per year, but that is highly dependent on having other collaborators to help with expenses.

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MS. KLEIN showed slide 15, a picture of one of their ongoing timber harvest sales in Edna Bay in southern Southeast Alaska saying it has been a highly successful model, especially for the community. It's the first-time use of the U.S. Forest Service Federal Good Neighbor Authority in Alaska. It was negotiated with site-specifics in order to give the university more flexibility to address concerns in the area. It has resulted in better use of the resource and its assets. The university has worked collaboratively with five partners on utilizing one another's infrastructure and not charging high rates, so they can all be more effective at what it is they do.

Edna Bay is also an example of a timber harvest that was highly controversial. The community was almost totally opposed to it and now through the process, which took some time, they are totally supportive and have asked when there will be another sale.

CHAIR GIESSEL asked Ms. Klein if she was from Southeast.

MS. KLEIN answered yes; she is from one of the original homesteads in Alaska near Ketchikan. They have had two sales in the last years; one sale was of about 400 acres on the Chilkat Peninsula in Haines. But the community was not super thrilled about it; it was near some properties they had previously developed for a residential subdivision. So, they have rethought that and are looking at doing some residential development on that particular parcel, some of which had already been logged. They didn't get any bids although they got "clear interest in the area," which is where the majority of the remaining forested trust lands are located. It came with some conditions from the buyer.

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She reported that the sale that is going on now is in public notice and will be a 10-year negotiated timber sale to provide supply to Asia and domestic markets for timber as well as a new market that has never occurred in Alaska before, which is cottonwood for furniture.

Their partners are the Alaska Division of Forestry, the Mental Health Trust, and the University of Alaska, so hopefully it will provide a 10-year supply. Their combined target volume is 150 million board feet. That particular holding is 13,400 acres; it had been closer to 14,000 acres but taking the Chilkat parcel off the table reduced it.

MS. KLEIN explained the reason they partner with some of the other folks is that they are adjacent to the university's lands, so they can have easier access. Their partners also have similar missions and fiduciary responsibilities with respect to being a trust or having beneficiaries. This negotiated sale will have to be at or above fair market value and the project will comply with all applicable local, state, and federal laws, in particular with the Forest Practices Act, which crosses multiple agencies in Alaska (DEC, ADF&G, and DNR).

Currently, the university has a development and disposal plan out for public comment and that will also need approvals from the Haines Borough. A public open house is scheduled for Haines on April 26th to help answer more questions and explain the process in more detail. This sale is anticipated to generate \$10-15 million. It will also infuse the local community economy with \$90 million in private capital and infrastructure. It would also require 40-45 new local jobs: 20-25 to support maritime activities and 20 in construction.

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CHAIR GIESSEL remarked that is amazing news for the Haines economy, plus the mining opportunity in that area.

MS. KLEIN acknowledged the Constantine Mine that has some encouraging potential developments.

CHAIR GIESSEL asked who the other entities are that they are partnering with in this sale.

MS. KLEIN replied the other land owners are the Alaska Division of Forestry and the Mental Health Trust Lands Office; and the

U.S. Forest Service is helping them with work force development. So, the university recently obtained some small grants to help with that.

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CHAIR GIESSEL asked if she had seen local interest in the job preparation area.

MS. KLEIN said they were just notified this morning that the grant was successful, so they were not at that point, yet. Private land holders and the buyer's names are confidential.

CHAIR GIESSEL said she was struck by the cottonwood market and extended an invitation to interested parties to also come to Southcentral.

MS. KLEIN said they want to diversify their revenues, but last year the legislature's intent was that the University of Alaska further develop and improve upon utilization of its land grants in order to generate additional revenue, and she takes that very seriously. The Board of Regents wants to sustain its trust endowment and directed them to do so as their fiduciary responsibility. If that can be done, it would reduce reliance on state general funds.

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Timber resources are the largest remaining trust assets and several sales are in progress: the Edna Bay sale will be completed this year. The 1,000-acre Vallenar Bay Spring timber sale near Ketchikan has not started yet but will be another joint effort. The Haines 10-year parcel is another one.

Mineral resources are the next valuable potential that they don't know much about yet, Ms. Klein said. Those assessments require capital. Right now, they have primarily gravel and coal resources.

The remaining real estate the trust has is remote and about 10-15,000 acres are in federal land holdings and they have two oil and gas leases on Kenai Peninsula, but they are very, very small.

MS. KLEIN summarized that she is trying to do the best she can with what she has, which is very little. She is basically turning over every stump and rock have to see what can be done to create revenue.

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SENATOR MEYER asked how much revenue the university gets from its land annually.

MS. KLEIN replied on average about \$6.5 million.

SENATOR MEYER said she made a good case that the university has a grant deficit of 360,000 acres and asked how the legislature can help.

MR. BAKER answered that legislature has been very supportive in the past and has pushed it as far as possible. The State Supreme Court has now said that absent some sort of federal construct the state won't be able to continue doing that. In short, they need the continued support of the legislature recognizing that federal government thinks it is now a state obligation with what the state already received or might receive. That is the new thing from their perspective. They want whatever this becomes to be defensible and a legitimate federal program that accomplishes good things for Alaska, in general.

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SENATOR MEYER asked if resolutions urging the delegation to get those lands would help.

MR. BAKER answered yes. The other body had introduced a resolution in that vein.

SENATOR MEYER said it seems like they have been fighting this battle for some time and asked if the university gets any feedback from the Washington delegation.

MR. BAKER replied that they have had many conversations with the delegation who have asked for "clear communication" from the state that it is a priority and that the administration, the university, and the DNR are "shoulder to shoulder" on it. Because of competing priorities for land, the lands that have been discussed that would come to the university over the years have been heavily identified in the Tongass National Forest, and that is a very difficult place to do any sort of land work.

SENATOR MEYER said with Senator Murkowski as Chair of the U.S. Senate Committee on Energy and Natural Resources, this is a good time to show that the state is shoulder to shoulder with the university on making this happen. He asked how UA land compares with Mental Health Trust lands in terms of acres and stated, "If we can get ANWR, we can surely get you 360,000 acres."

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WYN MENEFEE, Executive Director, Land Office, Alaska Mental Health Trust (AMHT), Anchorage, Alaska, replied that AMHT manages about 1 million acres, which could be either fee simple or subsurface.

SENATOR MEYER asked where AMHT got its acreage.

MR. MENEFEE replied that the trust got its land originally through the Alaska Mental Health Enabling Act in 1958. But a lawsuit said the state mismanaged the trust lands in 1984-94 and that resulted in a reconstitution of the trust. Some was original trust land, but because some lands were already encumbered and used for things that didn't benefit the trust other parts came from state lands in approximately equal parts. The reconstitution made whole the one million-plus acres and an endowment of money in addition.

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SENATOR COGHILL said he agreed with Senator Meyer that the state needs to demonstrate alignment on this issue.

CHAIR GIESSEL also agreed and invited DNR Deputy Commissioner Heidi Hansen to come to the table and tell the committee where DNR is in terms of supporting transferring land to the university.

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HEIDI HANSEN, Deputy Commissioner, Department of Natural Resources (DNR), Anchorage, Alaska, apologized and said she just recently learned about this issue, and would be happy to get back to her with the information.

CHAIR GIESSEL asked the Division of Forestry the same question.

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CHRIS MAISCH, State Forester and Director, Division of Forestry, Department of Natural Resources (DNR), Fairbanks, Alaska, answered that he collaborated with both organizations around the state on intermingled-ownership properties. This concept isn't new, but the projects have gotten larger over time.

The Edna Bay joint project is a great example of many landowners getting together to finance the construction of a log transfer facility (LTF) with DNR funds that they will all use. And the

university is using that site to facilitate the sale of its timber.

He said the next one will be the Good Neighbor Authority (GNA) Project, a U.S. Forest Service-owned timber sale, but the State of Alaska has completed the sale and will manage it on behalf of the Forest Service through the GNA authority.

MR. MAISCH said the state will follow up with a sale of its own on the state forest at Edna Bay. SEALASKA Native Corporation may also use the same LTF. So, it's a great example of collaboration between many landowners to keep costs down and be very efficient in managing the resource.

The Haines project is the most recent one and is quite exciting. A fair amount of investment will be required on some of the infrastructure pieces and the university is taking the lead on that. It has real potential to duplicate what was done at Edna Bay.

CHAIR GIESSEL said last fall there were some potential buyers of timber in the Interior and MatSu Valley, and one of the impediments had to do with our forests being certified. She asked if any of the university land is adjacent to those properties that the state has and how this could go forward for both entities.

MR. MAISCH replied that all three, the two trusts and the State of Alaska have intermingled ownerships in that location. But he would have to look at ownership maps to assess the timber resources, but that could be an opportunity to collaborate. The one difference is that area doesn't have a state forest and that puts state land in a little different perspective in terms of potential sales.

The certification question was more important to the Valley proposal, because much of that wood would have gone into the energy markets in Japan and the certification piece was an energy market requirement for entry. The projects in Haines and Southeast are not energy projects, so those don't have a similar requirement at this time.

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Slide 8

CHAIR GIESSEL noted the state anti-dedication clause as an explicit exception when it is required by the federal government to participate in federal programs. So, that means students

going to the university are certainly getting federal loans and she wondered if there could be some kind of state match for loans that would get past the anti-dedication clause.

ANDY HARRINGTON, Associate General Counsel, University of Alaska, Fairbanks, Alaska, replied that is the type of creative thinking he is looking for, and he would look into it.

CHAIR GIESSEL said the legislature really wants to help in any way it can. She offered to get a Senate Resolution passed if that would be helpful.

SENATOR COGHILL encouraged them to also think creatively along the lines of using the federal programs involved with the Arctic universities working with the National Oceanic and Atmosphere Administration (NOAA) to their benefit.

MR. BAKER responded that they will do that. He noted the resolution introduced in the other body was HJR 39.

CHAIR GIESSEL said they would look that up and spruce up the language a bit. She thanked the presenters for the update.

[4:32:03 PM](#)

CHAIR GIESSEL adjourned Senate Resources Standing Committee meeting at 4:32 p.m.