

SENATE BILL NO. 324
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR LITTLE

Introduced: 2/14/94
Referred: RES, JUD, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act amending the requirements relating to best interest findings and the
2 requirements of notice and hearing applicable to the Department of Natural
3 Resources under the Alaska Land Act as they relate to the disposition of state
4 land, property, resources, or interests in them."

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

6 * Section 1. AS 38.05.035(e) is amended to read:

7 (c) Upon the issuance of a final written finding that the interests of the state
8 will be best served, the director may, with the consent of the commissioner, approve
9 contracts for the sale, lease, or other disposal of available land, resources, property or
10 interests in them, and, in addition to the conditions and limitations imposed by law,
11 may impose additional conditions or limitations in the contracts as the director
12 determines, with the consent of the commissioner, will best serve the interests of the
13 state. A written finding for an oil and gas lease sale under AS 38.05.180 is subject
14 to (g) of this section. A contract for the sale, lease, or other disposal of available land

1 or an interest in land is not legally binding on the state until the commissioner
2 approves the contract but, if the appraised value is not greater than \$50,000 in the case
3 of the sale of land or an interest in land, or \$5,000 in the case of the annual rental of
4 land or interest in land, the director may execute the contract without the approval of
5 the commissioner. Before a public hearing, if held, or in any case not [NO] less than
6 180 days before the sale, lease, or other disposal of available land or an interest
7 in land for oil and gas subject to AS 38.05.180(b), the director shall make
8 available to the public a preliminary written finding that sets out the facts and
9 applicable law upon which the determination that the sale, lease, or other disposal
10 will best serve the interests of the state will be based together with the
11 information required by (g) of this section. Before a public hearing, if held, or
12 in any case not less than 21 days before the sale, lease, or other disposal of available
13 land, property, resources, or interests in them not subject to AS 38.05.180(b), the
14 director shall make available to the public a written finding that sets out the facts and
15 applicable law upon which the determination that the sale, lease, or other disposal will
16 best serve the interests of the state was based. For a sale, lease, or other disposal
17 of available land or an interest in land for oil and gas subject to AS 38.05.180(b),
18 the director shall provide opportunity for public comment on the preliminary
19 written finding for a period of not less than 60 days but the director may extend
20 a public comment period on the preliminary written finding for an additional 30
21 days. Following receipt and consideration of any public comments to the
22 preliminary written finding for a sale, lease, or other disposal of available land
23 or an interest in land for oil and gas subject to AS 38.05.180(b), the director shall
24 prepare and issue a final written finding not less than 21 days before the sale,
25 lease, or other disposal of available land, property, resources, or interests in them.
26 The final written finding for a sale, lease, or other disposal of available land or
27 an interest in land for oil and gas subject to AS 38.05.180(b) must set out the facts
28 and applicable law upon which the determination that the sale, lease, or other
29 disposal will best serve the interests of the state was based, must provide the
30 information required by (g) of this section, and must be given notice as required
31 by AS 38.05.945(b)(3). A written finding is not required before the approval of

- 1 (1) a contract for a negotiated sale authorized under AS 38.05.115;
2 (2) a lease of land for a shore fishery site under AS 38.05.082;
3 (3) a permit or other authorization revocable by the commissioner;
4 (4) a mineral claim located under AS 38.05.195;
5 (5) a mineral lease issued under AS 38.05.205;
6 (6) a production license issued under AS 38.05.207;
7 (7) an exempt oil and gas sale under AS 38.05.180(d) of acreage
8 offered in a sale that was held within the previous five years if the sale was subject
9 to a written best interest finding, unless the commissioner determines that new
10 information has become available that justifies a revision of the best interest finding;
11 or
12 (8) a lease sale under AS 38.05.180(w) of acreage offered in a sale that
13 was held within the previous five years if the sale was subject to a best interest
14 finding, unless the commissioner determines that new information has become
15 available that justifies a revision of the best interest finding.

16 * Sec. 2. AS 38.05.035(g) is amended to read:

17 (g) When the director prepares a preliminary written finding and the final
18 written finding required under (c) of this section for an oil and gas lease sale scheduled
19 under AS 38.05.180, the director shall consider and discuss in the finding

20 (1) facts that are known to the director at the time of preparation of the
21 finding and that are material to the following matters or, for a final finding, to issues
22 that were raised during the period allowed for receipt of public comment:

23 (A) property descriptions and locations;

24 (B) the petroleum potential of the sale area, in general terms;

25 (C) fish and wildlife species and their habitats in the area;

26 (D) the current and projected uses in the area, including uses
27 and value of fish and wildlife;

28 (E) the governmental powers to regulate oil and gas exploration,
29 development, production, and transportation;

30 (F) the reasonably foreseeable cumulative effects of oil and gas
31 exploration, development, production, and transportation on the sale area,

1 including effects on subsistence uses, fish and wildlife habitat and populations
2 and their uses, and historic and cultural resources;

3 (G) lease stipulations and mitigation measures, including any
4 measures to prevent and mitigate releases of oil and hazardous substances, to
5 be included in the leases, and a discussion of the protections offered by these
6 measures;

7 (H) the method or methods most likely to be used to transport
8 oil or gas from the lease sale area, and the advantages, disadvantages, and
9 relative risks of each;

10 (I) the reasonably foreseeable fiscal effects of the lease sale and
11 the subsequent activity on the state and affected municipalities and
12 communities, including the explicit and implicit subsidies associated with the
13 lease sale, if any;

14 (J) the reasonably foreseeable effects of oil and gas exploration,
15 development, production, and transportation on municipalities and communities
16 within or adjacent to the lease sale area; and

17 (K) the bidding method or methods adopted by the
18 commissioner under AS 38.05.180;

19 (2) a summary of agency and public comments received and the
20 department's responses to those comments if the written finding is a final finding;
21 and

22 (3) the basis for the director's preliminary or final finding, as
23 applicable. [DETERMINATION] that, on balance, leasing the area would be in the
24 state's best interest.

25 * Sec. 3. AS 38.05.945(a) is amended to read:

26 (a) This section establishes the requirements for notice given by the department
27 for the following actions:

28 (1) classification or reclassification of state land under AS 38.05.300
29 and the closing of land to mineral leasing or entry under AS 38.05.185;

30 (2) zoning of land under applicable law;

31 (3) each of the following relating to interests in state land or

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resources:

(A) a preliminary finding [A DECISION] under AS 38.05.035(e) regarding the sale, lease, or disposal of an interest in state land or resources for oil and gas subject to AS 38.05.180(b);

(B) a final finding under AS 38.05.035(e) regarding the sale, lease, or disposal of an interest in state land or resources for oil and gas subject to AS 38.05.180(b); and

(C) a decision under AS 38.05.035(e) regarding the sale, lease, or disposal of an interest in state land or resources other than for oil and gas subject to AS 38.05.180(b);

(4) a competitive disposal of an interest in state land or resources after final decision under AS 38.05.035(e);

(5) a public hearing under AS 38.05.856(b);

(6) a preliminary finding under AS 38.05.035(e) and 38.05.855(c) concerning sites for aquatic farms and related hatcheries.

* Sec. 4. AS 38.05.945(b) is amended to read:

(b) When notice is required to be given under this section,

(1) the notice must contain sufficient information in commonly understood terms to inform the public of the nature of the action and the opportunity of the public to comment on it;

(2) if the notice is of an action described in (a)(3)(A) of this section, the department shall give notice for a period of at least seven consecutive days at the beginning of the period to receive public comment on the preliminary written finding, inviting the public to submit comments; the department shall give notice

(A) by publication of a legal notice in newspapers of statewide circulation and in newspapers of general circulation in the vicinity of the proposed action;

(B) by publication of notice in display advertising form in the newspapers described in (A) of this paragraph;

(C) by commercial radio advertising in the vicinity of the proposed action; and

1 (1) by placing copies of maps at public places in the vicinity
2 of the proposed action; the maps must display the area proposed for
3 disposal under this paragraph in relationship to adjacent communities,
4 roads, and other readily identifiable natural features;

5 (3) if the notice is of an action [NOTICE OF ONE OR MORE
6 ACTIONS] described in (a)(1), (2), (3)(B) or (C), or (4) - (6) [(a)] of this section, the
7 department shall give notice [SHALL BE GIVEN] at least 30 days before the action
8 by publication in newspapers of statewide circulation and in newspapers of general
9 circulation in the vicinity of the proposed action;

10 (4) in addition to compliance with the requirements of the
11 appropriate paragraphs of this subsection, the department shall give notice using
12 [AND] one or more of the following methods:

13 (A) [(1)] publication through public service announcements on
14 the electronic media serving the area affected by the action;

15 (B) [(2)] posting in a conspicuous location in the vicinity of the
16 action;

17 (C) [(3)] notification of parties known or likely to be affected
18 by the action; or

19 (D) [(4)] another method calculated to reach affected persons.
20 [A NOTICE SHALL CONTAIN SUFFICIENT INFORMATION IN
21 COMMONLY UNDERSTOOD TERMS TO INFORM THE PUBLIC OF THE
22 NATURE OF THE ACTION AND THE OPPORTUNITY OF THE PUBLIC
23 TO COMMENT ON THE ACTION.]

24 * Sec. 5. AS 38.05.945(c) is amended to read:

25 (c) When notice is required to be given under (b) of this section for an
26 [NOTICE AT LEAST 30 DAYS BEFORE] action under (a) of this section, the
27 department shall also give notice, not later than the appropriate deadline set out
28 in (b) of this section, [BE GIVEN] to the following:

29 (1) to a municipality if the land is within the boundaries of the
30 municipality, to a coordinating body established by community councils in a
31 municipality if the coordinating body or a community council within the area served

1 by a coordinating body requests notice in writing; [:] if there is no coordinating body
2 within the municipality, notice shall be provided to each community council
3 established by the charter or ordinance of the municipality if the land is located within
4 the boundaries of the municipality and if the community council requests notice in
5 writing;

6 (2) to a regional corporation if the boundaries of the corporation as
7 established by 43 U.S.C. 1606(a) (sec. 7(a) of the Alaska Native Claims Settlement
8 Act) encompass the land and the land is outside a municipality;

9 (3) to a village corporation organized under 43 U.S.C. 1607(a)
10 (sec. 8(a) of the Alaska Native Claims Settlement Act) if the land is within 25 miles
11 of the village for which the corporation was established and the land is located outside
12 a municipality;

13 (4) to the postmaster of a permanent settlement of more than 25
14 persons located within 25 miles of the land if the land is located outside a
15 municipality, with a request that the notice be posted in a conspicuous location;

16 (5) to a nonprofit community organization or a governing body that has
17 requested notification in writing and provided a map of its boundaries, if the land is
18 within the boundaries.