Introduced: 3/22/78
Referred: Resources and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 904

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to Alaska land policy; and providing for an effective date."

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

* Section 1. PURPOSE. Alaska's Constitution directs that the state "encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest" (art. VIII, sec. 1), and to "provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people" (art. VIII, sec. 2). The constitution also directs that "Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses" (art. VIII, sec. 4). The purpose of this Act is to implement these broad constitutional goals through establishment of policies for use of state land surface and to express these policies in sufficient detail to guide the administrative decisions which govern the use and management of state-owned land.

* Sec. 2. AS 38 is amended by adding a new chapter to read:

CHAPTER 4. POLICY FOR USE AND CLASSIFICATION OF STATE LAND SURFACE.

ARTICLE 1. PUBLIC AND PRIVATE LAND USE.

Sec. 38.04.005. POLICY. (a) In order to provide for maximum use of state land consistent with the public interest, it is the policy of the State of Alaska to plan and manage state-owned land to

establish a balanced combination of land available for both public and private purposes. The choice of land best suited for public and private use shall be determined through the inventory, planning, and classification processes set out in secs. 60 and 70 of this chapter.

(b) In classifying state land for private use and settlement purposes, the director shall make adequate provision for public open space which is accessible to communities so that natural areas are easily reached from all communities and settled areas. The amount of such land must be sufficient to meet existing and projected needs for accessible public recreation land. Special care shall be taken to preserve public access to public water and to retain state ownership of sufficient land which combine high value for recreation and other public purposes with accessibility to settled areas. This classification for public purposes does not constitute dedication to open space, but the division's management of land so classified shall be in a manner to preserve the identified values.

(c) In allocating land for private use and public retention, the requirements of future generations must be considered. To this end, a supply of state land of a variety of types and locations must be reserved to provide an opportunity for future decisions.

(d) Private land use rights are integral to the material well-being of the people of Alaska and our society.

(e) Involvement of municipalities and local residents is essential in the decision making process which leads to making state land available for private use.

Sec. 38.04.010. PUBLIC INTEREST IN MAKING LAND AVAILABLE FOR PRIVATE USE. (a) The primary public interest in conveying rights to state land surface to private parties is to make them available to individuals and other persons for direct use in areas classified as

suitable for these purposes. In making state land available for private use, the director shall seek to guide year-round settlement to areas where public services already exist, or can be extended with reasonable economy, or where development of a viable economic base is probable.

(b) State land which is located beyond the range of existing schools and other necessary public services, or which is located where development of sources of employment is improbable, may be made available for seasonal recreational purposes or for low density settlement, with sufficient separation between residences so that public services will not be necessary or expected.

Sec. 38.04.015. PUBLIC INTEREST IN RETAINING STATE LAND IN PUBLIC OWNERSHIP. The primary public interests in retaining areas of state land surface in public ownership are:

(1) to make them available on a sustained yield basis for a variety of beneficial uses including subsistence, forestry, grazing, sport hunting and fishing, hiking, snowmobiling, skiing, and other activities of a type which can generally be made available to more people and conducted more successfully if the land is in public rather than private ownership;

(2) to facilitate mining and mineral leasing by managing appropriate public land for surface uses which are compatible with subsurface uses;

(3) to protect critical wildlife habitat and areas of special scenic, recreational, scientific, or other environmental concern;

(4) to restrict development in floodplains, avalanche zones, and other hazardous locations; and

(5) to guide the location of settlement and development to

minimize public costs and maximize social and economic benefits.

ARTICLE 2. LAND AVAILABILITY FOR PRIVATE USE.

Sec. 38.04.020. TIMING AND AMOUNT. On a continuing or annual basis, the director shall make available for private use an array of state land suitable for a variety of uses. During fiscal year 1979, the director shall make available a minimum of 50,000 acres, not more than 10 per cent of which may be made available for leasing. Annually thereafter, the following three options for the state land availability program must be submitted to the legislature along with the administration's budget: an increased-level program, a current-level program, and a reduced-level program. At least one option must include at least 50,000 acres.

Sec. 38.04.025. VARIETY OF USES. In making state land available for private use, the director shall endeavor to accommodate persons with a current need and anticipated use for the land. To this end, the director shall assess the nature of the supply and demand for state land in different regions and locations of the state, taking into account the supply of available land under other ownership, and shall make land available in locations and other programs suited to the differing needs of prospective users throughout the state.

Sec. 38.04.030. LAND AVAILABILITY PROGRAMS. Programs which may be used by the director to make the state's land surface available for private use under this section include sale of whole or partial rights to the fee simple estate, including conveyance of agricultural use rights; leasing; open-to-entry; homesiting; homesteading; permitting for construction and occupation of cabins in isolated locations on land retained in state ownership; and other methods as provided by law.

Sec. 38.04.035. CRITERIA FOR PROGRAM SELECTION. In determining

which land availability program is appropriate for state lands in different locations, the director shall be guided by the following criteria:

(1) To cover public costs associated with private land use and to provide the public with a fair return for publicly owned property, conveyance of state land to private parties should be at fair market value except where otherwise authorized by statute or by administrative regulation.

(2) Sale or lease programs should be employed where land is readily accessible to a major community center or where, because of a prime location on waterfront or a transportation route or some other location characteristic, land has relatively high real estate value.

(3) Lease programs should be employed

(A) where special land use controls are required and there is a high public interest in having certain types of land used for particular purposes;

(B) when the intended use is a temporary one;

(C) in commercial or industrial situations when a leasehold can provide cash flow advantages to the lessee;

(D) when a unique location with special public values is involved, as in a deep water port; and

(E) where current demand for private use is high, but projections suggest that, in the future, the land may be more valuable for public use, as in accessible waterfront recreation areas.

(4) For enabling isolated cabin development in remote locations where survey and conveyance is impractical, a system for cabin permits on public land should be used.

(5) Limited or conditional title may be granted when the

state's best interest so dictates. Among other things, title limitations may include grants of agricultural interest only, retention of development rights, and retention of scenic or other easements. A conditional title may be tied to a development schedule or other standards of performance.

Sec. 38.04.040. AVAILABILITY OF MENTAL HEALTH LAND, SCHOOL LAND, AND UNIVERSITY LAND. Mental health land, school land, and university land may be made available at fair market value for private use under the purposes of this chapter; however, any such action must be in accordance with statutes pertaining to these lands and the authority of the mental health land board, the Board of Education, and the Board of Regents of the University of Alaska.

Sec. 38.04.045. SURVEY AND SUBDIVISION. (a) State land to be conveyed in fee simple or less than fee simple estate must be subdivided so that lots and tracts are of a size which fits the requirements of individual users and reflects the physical characteristics of the land, except that in locations where there is an inadequate margin between the demand for and the supply of vacant land, the state may make land available for private acquisition in parcels that are larger than required for individual use.

(b) Before the conveyance of surface rights to state land, an official cadastral survey must be accomplished, unless a comparable, acceptable survey exists that has been conducted by the Federal Bureau of Land Management. The rectangular survey section corner positions must be monumented and shown on a cadastral survey plat approved by the state. However, for those areas where the state may wish to convey surface estate outside of an Official Cadastral Survey grid, the director may waive monumentation of all individual section corner positions and substitute an official control survey with control

points being monumented at approximately two-mile intervals and shown on control survey plats approved by the state. No portion of land to be conveyed may be located more than two ~~suitable~~ Malone miles from such a survey control monument. The lots and tracts in state subdivisions must be monumented and the cadastral survey and plats for the subdivision must be approved by the state. Where land is located within a municipality with planning, platting, and zoning powers, plats for state subdivisions must comply with local ordinances and regulations in the same manner and to the same extent as plats for subdivisions by other landowners. State subdivisions must be filed in the district recorder's office. The requirements of this section do not apply to land made available through material sales or a cabin permit system, or under short-term leases.

Sec. 38.04.050. ACCESS TO PRIVATE USE AREAS. Wherever state land is surveyed for purposes of private use, adequate rights-of-way and easements must be reserved as necessary for access and, where appropriate, for power and telephone service to each parcel of land. Where necessary and appropriate for the use intended, the director shall arrange for the development of surface access as part of the land availability program. The direct cost of local access development must be borne by the recipient of the land unless otherwise provided by state statutes or regulations.

Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The director shall reserve easements and rights-of-way on and across land which is made available for private use as necessary to reach or use public water and public and private land.

ARTICLE 3. INVENTORY, PLANNING, AND CLASSIFICATION.

Sec. 38.04.060. INVENTORY. (a) The commissioner shall prepare and maintain on a continuing basis an inventory of all state land and

water and their resource and other values, giving priority to areas of potential settlement and of critical environmental concern. This inventory must be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values.

(b) The commissioner's inventory must include land and water under interagency assignment of land management authority and land and water proposed for such an assignment. That land and water must be reviewed at regular intervals to analyze current and proposed uses as these uses relate to alternative uses for all or part of the land and to determine the uses which best provide for the public interest.

(c) As funds and manpower are made available, the commissioner shall provide local and federal governments and major private landowners with data from the inventory for the purpose of planning and managing the uses of land in proximity to state land.

Sec. 38.04.065. LAND USE PLANNING AND CLASSIFICATION. (a) The commissioner shall, with local governmental and public involvement, develop, maintain and, when appropriate, revise land use plans which provide, by regions or areas, for the use of the state-owned land.

(b) In the development and revision of land use plans, the commissioner shall:

(1) use and observe the principles of multiple use and sustained yield;

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, economic, and social factors affecting the region or area;

(3) give priority to planning and classification in areas of potential settlement and critical environmental concern;

(4) rely, to the extent that it is available, on the inventory of the state land, its resources, and other values;

(5) consider present and potential uses of state land;

(6) consider the supply, resources, and present and potential use of land under other ownership within the area or region of concern;

(7) weigh long-term benefits to the public against short-term benefits;

(8) plan for compatible surface and mineral land use classifications; and

(9) provide for meaningful participation in the planning process by affected local governments, state and federal agencies, adjacent landowners, and the general public.

(c) As a basis for more detailed land use planning and classification, the commissioner shall develop regional land use plans for the use of all state land. These regional plans must identify and delineate (1) areas of settlement and settlement impact, where land must be classified for various private uses and for public recreation, open space, and other public uses desirable in and around settlement; and (2) areas which must be retained in state ownership and planned and classified for various uses and purposes in accordance with sec. 15 of this chapter.

(d) Official regional or area plans and subsequent amendments adopted by the commissioner after public and local governmental participation must be signed and dated by the commissioner. Land classifications must be made in accordance with these official plans.

(e) Land must be classified before being made available for private use or included in the management systems described in sec. 70 of this chapter.

(f) Decisions about the location of easements and rights-of-way, other than for minor access, must be integrated with land use planning

and classification for the appropriate area or region.

(g) Land use plans adopted by the commissioner under this section must be consistent with local governmental land use plans to the maximum extent he determines to be consistent with the state interests and the purposes of this chapter. Where a local zoning ordinance or other land use regulation is in effect, the provisions of AS 35.30.020

Sec. 38.04.070. MANAGEMENT SYSTEMS. (a) State land classified for uses and purposes involving retention in public ownership may be included in the following management systems:

(1) State Public Reserve System: areas of public land to be managed for a wide variety of compatible uses and purposes in accordance with the principles of multiple use and sustained yield; land designated to this system may include, but need not be limited to, state forest reserves and state wildlife reserves as well as land classified for public purposes within settlement impact areas;

(2) State Park System: areas with special recreational, scenic, cultural, historical, wilderness, or similar values, to be managed primarily for the public use and enjoyment of these values;

(3) State Trail System: a system of public historic or recreational trails;

(4) Wild and Scenic River Systems: a system of rivers with special natural, scenic, and recreational values designated by the state to be managed as part of the national system of wild and scenic rivers in accordance with the federal Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271 et seq.);

(5) State Public Domain: land within areas designated on regional plans as settlement and settlement impact which are not part of the management systems listed in (1) -- (4) of this subsection; through classification, this land may be made available for private use, settlement, and development as well as for public uses associated

with settlement and development.

(b) State land classified in accordance with sec. 65 of this chapter may be included in the State Public Reserve System by proclamation of the governor.

(c) State land classified in accordance with sec. 65 of this chapter may be included in the State Park System, State Trail System or the Wild and Scenic River System by proclamation of the governor. However, no state land, water, or combination of land and water may, except by Act of the state legislature, be closed to multiple purpose use, if the area involved contains more than 640 acres.

ARTICLE 4. GENERAL PROVISIONS.

Sec. 38.04.900. REGULATIONS. The commissioner may adopt under the Administrative Procedure Act (AS 44.62) regulations he believes are necessary to carry out the purposes of this chapter. Within 120 days after the effective date of this Act, the director shall submit to the commissioner draft regulations implementing this chapter and revising regulations in effect on the effective date of this Act pertaining to planning, classification, management, and disposal of the state's surface estate in land. New and revised regulations must be integrated in a single comprehensive draft compatible with the structure of the Alaska Administrative Code. In preparing this draft, the director shall seek to simplify and clarify regulations governing land planning, classification, management, and disposal.

Sec. 38.04.910. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of the Department of Natural Resources;

(2) "director" means the director of the division of lands of the Department of Natural Resources;

(3) "fair market value" means the price at which a willing seller and a willing buyer will trade;

(4) "multiple use" means the management of state land and its various resource values so that it is used in the combination that will best meet the present and future needs of the people of Alaska, making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; it includes (A) the use of some land for less than all of the resources, and (B) a combination of balanced and diverse resource uses that takes into account the short-term and long-term needs of present and future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historic values;

(5) "official cadastral survey" means a United States public land survey or a survey executed under survey instructions issued by the division for the purpose of preparing a cadastral survey plat, and approved and accepted by the division for the state's official records;

(6) "official control survey" means a position marked on the ground by triangulation or traverse stations established in conformity with standards adopted by United States Coastal and Geodetic Survey for first, second and third order work, whose geodetic positions have been rigidly adjusted on the North American datum of 1927 and approved by the division;

(7) "short-term lease" means a lease for a term of five years or less;

(8) "state park" means an area of state land designated by

proclamation of the governor or by statute to be managed for public use and enjoyment of recreational, scenic, cultural, historical, wilderness, and similar values, including but not limited to areas designated under (A) AS 41.20.050 - 41.20.060, roadside rests and recreational beaches; (B) AS 41.20.130 - 41.20.160, 41.20.330 - 41.20.365, ch. 61 SLA 1966, and ch. 26 SLA 1967, state recreation areas, (C) AS 41.20.170 - 41.20.320, state parks; and (D) AS 41.35.030, state monuments and historic sites;

(9) "state trail" means an area designated by proclamation of the governor or by statute to be managed as a public historic or recreational trail including but not limited to (A) trails designated under AS 41.20.070 - 41.20.120, wilderness trails and campsites; and (B) trails and footpaths designated under AS 41.20.355 - 41.20.375;

(10) "state wild and scenic river" means any free-flowing river or stream so designated by the state in accordance with the criteria set forth in the Federal Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C, 1271-1287);

(11) "sustained yield" means the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the state lands consistent with multiple use.

* Sec. 3. AS 38.05.300 is repealed.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

TESTIMONY

REGARDING LAND POLICY BILL

PRESENTED BY

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

APRIL, 1978

The Commission wants to speak in support of Senate Bill 562 establishing an Alaskan land policy. We have been studying State land policy for several years and participated with the Administration in preparing this bill. As we reviewed the existing statutes governing the State's public domain and studied the State's land programs as they have operated over the past 15 years, we found that Alaska has very little statutory guidance to govern the Administration's decisions about disposal or retention of State lands. The existing constitutional and statutory requirement that State lands be managed for "maximum use and benefit consistent with the public interest" gives us an excellent basic goal, but is not specific enough to guide the administrator who is deciding where and how much State lands to make available for private use. As evidence of this statutory lack, we have seen the State's land program shift from large tract disposal practices in the late 1960's and early 1970's to the minimal disposal of recent years.

Members of the Legislature have recognized this problem, and, last year, Senator Poland requested the Commission to study the subject and prepare recommendations to this Legislature. We presented initial recommendations to members of the Senate and House Resources Committees this

January. The land policy bill represents a refinement of those sections of the Commission's recommendations dealing with policy matters.

The land policy bill before you accomplishes these purposes through three articles:

(1) Article 1 covers policy for public and private use. Essentially, this section makes it clear that the State's overall land policy is to provide lands for both private and public use purposes and to allocate suitable lands for each purpose. Special emphasis is placed on maintaining a balance of public and private lands near communities so that natural areas are easily reached by all people, and not just those who can afford to travel long distances. Two parallel subsections set forth the public purpose in making lands available for private use and the public purpose in retaining State lands in public ownership for recreation, mining, resource development, and other purposes. The policy statement recognizes the essential role of local governments in the process of arriving at decisions about State lands.

(2) Article 2 provides guidelines to the Administration for making land available for private use. The first section on timing and amount is identical to the first section of the land credit bill which Governor Hammond introduced. This section mandates that the Administration make a quantity of State

lands available on an annual basis for private use purposes. A minimum of 50,000 acres is set for the first year, no more than 10% of which may be leased land. Thereafter, the amount is set annually by the Legislature. The basic orientation of this section is towards making land available for direct, individual use in locations and in parcel sizes that best meet differing needs in different areas as determined through an inventory process.

The bill sets forth a State policy for making land available at fair market value, particularly in close-in locations with high real estate values; but the criteria provide room for use of homesiting and open-to-entry in appropriate locations. To prevent misuse of leasing, as has occurred in past years, the bill lists the types of special circumstances where leasing would be an appropriate method of making land available. Provision is also made for recreation cabin permitting in isolated locations on State lands. A section on availability of trust lands is included, and standards for surveying and subdivision as well as for adequate access are set forth. On page 7 there is a strong provision requiring State subdivisions to conform with local platting authority.

(3) Article 3 covers inventory planning and classification. This section draws from existing scattered and partial statutory direction for land inventory, planning and classification to

establish in one statute a clear, simple and unified program for analyzing the value and use potential of State lands. All lands must be inventoried and their appropriate use designated. As part of this process, the advise of local governments must be obtained.

The section establishes a new State management system for multiple use lands, called the "State Public Reserve System." There is also a new section on wild and scenic rivers giving the State the option of designated selected rivers in State ownership as part of the National Wild and Scenic Rivers System to be managed by the State in accordance with national guidelines. The Legislature retains its existing authority to approve any designation of more than 640 acres which would close the land to multiple use.

In summary, much of what is included in the land policy bill are generally accepted principles of good land management. The bill acknowledges the public desire to acquire State land for private use and mandates an active program in this direction. However, it does so in a responsible manner without sacrificing the many other valid uses of State land. We feel that adoption of this bill will clarify the State's position as a land manager, and will help in establishing this fact at a national level.

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In summary, much of what is included in the land policy bill are generally accepted principles of good land management. The bill acknowledges the public desire to acquire State land for private use and mandates an active program in this direction. However, it does so in a responsible manner without sacrificing the many other valid uses of State land. We feel that adoption of this bill will clarify the State's position as a land manager, and will help in establishing this fact at a national level.

SECTION BY SECTION ANALYSIS
LAND POLICY BILL
HOUSE BILL NO. 904/SENATE BILL NO. 562

Sec. .005. This section sets forth basic intent and purpose regarding state-owned lands. Paragraphs (a) through (e) are purposely worded in the form of general policy directives rather than in the form of specific binding legal requirements. The last sentence in (b), lines 13-16, page 2, needs some explanation. Such a statement is necessary if lands classified for open space purposes are to qualify as the matching share for federal funds under the Land and Water Conservation Program.

Sec. .010. Under this statement, the basic orientation of State land disposal is towards the needs of individuals and other parties who will actually use the land. The Commission recommended this policy after finding that state land sales in the late 1960's and 1970's had primarily benefited land companies and wealthy individuals who could afford large tract purchases, rather than individuals who were looking for cabin or house sites. To change this orientation, land should be made available in individually sized parcels.

This section also includes a directive that state land availability programs concentrate in areas where public services already exist or can be extended, or where a viable economic base could be developed. This policy would not prohibit remote land disposal but, rather, direct that in such areas disposal would be mainly for recreation cabin sites with seasonal road or water access. Another method of fulfilling this directive might be through a rural cabin permit system, meeting the needs of people who want real isolation with several miles of separation between sites.

Sec. .015. This section lists the various reasons for retaining some state lands in public ownership, and is generally self-explanatory.

Sec. .020. This paragraph is identical to the first paragraph of the Governor's land credit proposal. An annual determination of acreage to be available for private use gives the legislature the flexibility to respond to changes in circumstances over the years. An annual determination is consistent with the basic thrust of the policy bill which is to make lands available where they are most needed and with consideration of local supply and demand factors. We would note that, in terms of meeting people's needs, it is not the gross acreage of land that is important but, rather, location, access, and tract size.

Sec. .025. This section is simply additional direction to base the land availability programs on an assessment of the differing needs for land of different types in various parts of the state, and to tailor state land programs accordingly.

Sec. .030. This section summarizes the variety of land availability programs within existing statutes and regulations and adds, in lines 25, 26, and 27, authority for a cabin permit system to be used in isolated locations on state-owned lands. To enable private use of remote isolated lands, the state must have a program which does not require land survey. In isolated locations a survey can cost as much as $4,000, often exceeding the market value of the land. A permit system which, unlike a conveyance program, would not entail land survey.

Sec. .035. The fair market value criterion set forth in (1) is self-explanatory. Besides the reasons included in the paragraph, the Commission recommends this approach because grant programs tend to invite public abuse, and are very difficult to administer in a fair and evenhanded manner. It should be noted that most of the participants at the Alaska Public Forum favored a market value approach to state land disposal. However, item (1) allows the use of less than fair market value programs as authorized by statute or administrative regulation and thus would enable the continuation of the homesite, homestead, and open-to-entry programs.

Paragraph (2) is self-explanatory.

Paragraph (3) spells out specific and detailed criteria for the choice of areas where lease programs would be used. This is an important addition to the state's body of land law. In the past lease programs have often been used where sale programs would have been more suitable.

Paragraph (4) gives direction for the use of cabin permitting in isolated, remote areas.

Paragraph (5) refers to the director's existing statutory authority to grant conditional title in special situations such as agricultural areas where the state wishes to ensure agricultural development, or in areas where the state may wish to preserve scenic easements, while making the land available for private uses compatible with this purpose.

Sec. .040. This section is self-explanatory. As a result of our discussion with the Community and Regional Affairs Committee, we are proposing a substitute paragraph (A in the list of suggested amendments) that would establish a more aggressive program for trust land availability.

Sec. .045. Under this section, the state would set survey control markers so that individual private surveys, tied to these markers, would mesh and not overlap. In the western states where areas were surveyed separately by private citizens, without an overlying set of control points, there were serious problems with overlapping and contradictory surveys. As a result, citizens were saddled with title problems, unusable property, etc. Through this section, we hope to avoid or minimize such problems in Alaska.

Sec. .050. This section requires the state to provide adequate access to private use areas. Lines 18 through 20 gives direction for the integration of state road development programs with land availability programs in appropriate locations. If state land is actually to be made available for individual use, it is important to strengthen the state's role in development of local access roads associated with state land use programs.

Sec. .055. Self-explanatory.

Sec. .060. A regular, updated inventory of the land suitability should be the foundation of the state's land management program. The state already has a good start in this direction through the land selection inventory.

Paragraph (b) of this section directs the division to reassess holdings of other state agencies, such as the Division of Aviation, to see if the land amount is excessive or inadequate in relation to current needs and alternative uses of the property. Such a program is especially important in small communities where excessive agency holdings occasionally preempt lands that are vitally needed for other community uses.

Sec. .065. Paragraphs (a) and (b) provide guidelines and standards for the development of land use plans for state lands.

Paragraph (c) directs the commissioner to prepare regional land use plans for all of the state-owned land. These would be of simple "first-cut" plans separating areas of settlement and settlement impact from areas of public use and ownership.

Paragraph (d) provides a formal method of identifying the official plan so that the public and the admi istration knows which document to rely on, and makes the important requirement that land classification be based on the official plan.

Paragraph (e) is self-explanatory.

Paragraph (f) establishes a needed tie between transportation planning and general land planning.

Paragraph (g) requires state planning to be consistent with local governmental planning.

Sec. .070. This section adds a state multiple use management system to the existing state park and trail systems. Lands may be designated to this new system, the "State Public Reserve System" by proclamation of the governor. The legislature retains its existing power to approve any designation of land to a system closed to multiple purpose use for an area of over 640 acres.

Paragraph (4) gives the state the option of designating rivers or portions of rivers to be managed by the state under the guidelines of the National Wild and Scenic Rivers System. Such authority may be desirable in some areas where segments of a river are owned by the federal and state governments. If a whole river-trip area can be managed under one set of guidelines, overall recreation benefits may be increased.

Sec. 900. This section includes a requirement that the director adopt, within 120 days, a comprehensive revision of the regulations affecting planning, classification, management, and disposal of state land surface. The administration has long recognized the need for this overall rewrite, and work on a revision is in process.

*Sec. 3. The repealed section 38.05.300 deals with classification and with the authority of the legislature to approve single-use designation for more than 640 acres. This bill spells out the classification and planning process more completely, and section 38.05.300 should be deleted to avoid confusion. The legislature's control over single-use designation of more than 640 acres is included in section .070(c) of this bill (page 8, lines 8-10).

Municipality of Anchorage

POUCH 6-650
ANCHORAGE, ALASKA 99502
(907) 274-2525

GEORGE M. SULLIVAN,
MAYOR

OFFICE OF THE MAYOR

April 17, 1978

The Honorable Kay Polland
Alaska State Senator
Pouch V
Juneau, Alaska 99811

Dear Senator Polland:

Senate Bill No. 562 will come before the Natural Resource Committee on Monday, April 17, 1978. There are three sections of this Bill which may adversely affect the Municipality of Anchorage. We would like to share our concerns with you regarding these sections before the Bill is heard by your committee.

Proposed section 38.04.045 (b) deals with the survey and subdivision of State land to be conveyed to private ownership. This section mandates compliance with local planning and platting ordinances. However, this section exempts from these ordinances land made available through mineral sales or a cabin permit system.

We object to the exemption provision for two reasons. First, it would be detrimental to the Municipality's planning program because under it large segments of land within the Municipality would not be subject to our planning and platting ordinances. If certain segments of land are not subject to the Municipality's planning and platting ordinances, then the ordinances become ineffective because they are designed to regulate all the land within the Municipality.

Second, the exemption provision conflicts with the policy contained in A.S. 09.55.275 which requires that any agency of the State must comply with local platting regulations in the same manner as private land owners when the State seeks to acquire property. This policy logically applies to the converse, i.e. when the State seeks to dispose of property. Providing for a partial exemption when the State seeks to dispose of property appears to serve no purpose. For the foregoing reasons, we suggest that the exemption provision be deleted.

Proposed section 38.04.065 deals with State Land Use Planning and Classification. Subsection (g) requires that State land use plans be consistent with local plans only to the extent that the Commissioner determines the local plan to be consistent with State interests.

We object to this subsection because it seems to conflict with A.S. 35.10.020 entitled "Consultation with Municipal Planning and Zoning Commissions". This section requires the State to comply with all local planning and zoning ordinances in the same manner as private land owners unless a State agency can "clearly demonstrate an overriding State interest". When a State agency makes such a showing, a specific waiver must be granted by the Governor.

We suggest that subsection (g) be made consistent with the language in A.S. 35.10.020 by amending the latter to require State land use plans to be consistent with Municipal plans unless a gubernatorial waiver is granted upon a "clear showing of an overriding State interest".

Proposed Section 38.04.065 would involve the State in regional land use planning in areas which now have local planning. The Municipality of Anchorage has actively engaged in a land use planning program and intends to maintain this effort. Until the degree of State involvement in local land use management is clarified, we cannot support this proposed section.

Sincerely,

George M. Sullivan
Mayor

Michael J. Meehan
Director of Planning

/sw

FSLUPC
April, 1978

LAND POLICY BILL

Suggested Amendments

A. Page 6, line 6, suggested substitution for section .040.

AVAILABILITY OF MENTAL HEALTH LAND, SCHOOL LAND, AND UNIVERSITY LAND. Under the purposes of this chapter, mental health land, school land, and university land may be made available for private use in accordance with statutes governing such lands. In their capacity as trustee for such lands, the Mental Health Board, the Board of Education, and the Board of Regants of the University of Alaska shall, within 120 days from the date of this act, define goals and objectives for the management and disposition of lands under their trusteeship. In accordance with these goals and objectives and in consultation with the municipalities in which such lands are located, the director shall prepare an annual program for sale or lease offerings of selected mental health lands, school lands, and university lands. This program shall accompany the annual land availability programs submitted to the Legislature in accordance with section .020 of this chapter.

B. Page 7, line 11, substitute for last sentence.

The requirements of this section do not apply to land made available through a cabin permit system, material sales, or short-term leases; provided, however, that for short-term leases a municipality may require compliance with local subdivision ordinances.

C. Page 9, line 27, added sentence to paragraph (e).

The classification process must include notice and review requirements of existing statutes.

D. Page 10, line 5, added sentence to paragraph (g).

Where a local zoning ordinance or other land use regulation is in effect, the provisions of AS 35.30.020 and AS 35.30.030 shall apply.

FSLUPC
April, 1978

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ill equipped to deal w/mgmt of land mgmt. - funded only

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Mal.

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To: Bush members of the
House Resources Committee

From: Kathy Brown, A.A. for
The Bush Caucus

Re: House Bills 904 and 905 which are before the Resources Committee this afternoon

Date: April 19, 1978

House Bill 904 by the Governor relating to an Alaska Land Policy is identical to Senate Bill 562 by the Resources Committee which is currently in Senate Resources and, like HB 904, it has an additional referral to the Finance Committee. I am attaching a brief summary of the bill which I took from the Governor's transmittal letter.

House Bill 905 by the Governor relating to land disposal is identical to Senate Bill 568, also by the Governor. The Senate bill too is in Senate Resources with an additional referral to Finance. I am attaching copies of the Governor's letter of transmittal which gives a "quick and dirty" summary of the bill.

The drafter of the bill is Pete Fraelich of the Dept. of Law. Should anyone have any detailed questions.

was introduced, read the first time and referred to the Committees on Commerce and Finance.

HB 904 BY REQUEST BILL NO. 904 by the Rules Committee by request of the Governor, entitled:

"An Act relating to Alaska land policy; and providing for an effective date."

was introduced, read the first time and referred to the Committees on Resources and Finance.

The Governor's transmittal letter on HB 904 & 905 appears following:

"March 22, 1973

The Honorable Hugh Malone
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of Article III, Section 18 of the Alaska Constitution, and in accordance with AS 24.30.050(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting two bills related to the disposal of land. This legislation, in conjunction with existing law, will constitute a comprehensive long-term state land management policy and will mandate a rational process to make state land available for private ownership and use.

The first bill, called the Alaska Land Credit Act, will establish a new program by which state land would be made available at minimal cost. The second measure, the Alaska Land Policy Act, clarifies and supplements the broad multiple land use mandates set out in Article VIII of the Alaska Constitution.

We who live in this state should be able to secure land for private use. Twenty-two thousand people have underscored that desire for land by signing the Beirne initiative. But that initiative has real problems. It would require that up to thirty million acres be made available on a first-come, first-served basis. Each three-year resident would be entitled to stake 40 acres of public land wherever vacant state land exists. Land would be issued, free, to the first claimant without regard to their needs or public needs. No improvement or residence on the land would be required to gain title.

This is no plan to give people needed sites for cabins or other use. It is, plainly and simply, a vast land give-away which could create an Oklahoma land rush in Alaska.

Although many Alaskans recognize the problems of this approach, they support it because there is no permanent policy established in the law to get even needed public lands into private ownership. An alternative method must be provided which creates a land policy that is reasonable, consistent, useable and stable.

I am introducing two bills into the Legislature today to provide that alternative. The bills accomplish the following:

Land Credit Bill

1. Make a minimum 50,000 acres of land available to the public in the first year, in addition to that already being conveyed. Thereafter the amount made available each year is determined by the Legislature, but more land might be opened each year.

2. Establish a Land Credit of $1,000 for each year of residency. These credits may be used for up to 90% of the purchase or rental price of public land.

3. Land credits may be applied to all means of land disposal: Open to Entry, direct sales, lease sale of agricultural rights, and homesite programs.

HB 905

LETTER OF TRANSMITTAL OF HOUSE BILLS 904 & 905 FROM MARCH 22 7[illegible] HOUSE JOURNAL

HB 903 HOUSE BILL NO. 903 by the Finance Committee, entitled:

"An Act establishing an invention awards program."

was introduced, read the first time and referred to the Committees on Commerce and Finance.

HB 904 HOUSE BILL NO. 904 by the Rules Committee by request of the Governor, entitled:

"An Act relating to Alaska land policy; and providing for an effective date."

was introduced, read the first time and referred to the Committees on Resources and Finance.

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HB 905

COPIES OF LETTER OF TRANSMITTAL FOR HOUSE BILLS 904 & 905 FROM March 22 76 HOUSE JOURNAL

HB 904

Land Policy Bill

1. Establish a land and resource inventory program for analyzing the value and use potential of state land.

2. Establish a clear legislative statement of land disposal policy.

3. Establish a means for balancing private and public land uses and allocating lands for each purpose.

4. Establish a logical system to ensure useable and safe land is conveyed to the public.

These bills, I believe, meet the legitimate needs of the people of Alaska for land, but do so in a responsible manner. The bills accept the basic concept of the land disposal from the Beirne initiative but take it several logical steps further. I feel these bills are wider in application and more far-sighted in that they

provide for a continuation of desirable public uses on public lands while making land available to the citizens of Alaska for their needs.

Sincerely,

[signature]

Jay S. Hammond
Governor"

HB 905 HOUSE BILL NO. 905 by the Rules Committee by request of the Governor, entitled:

"An Act relating to disposal of state land; and providing for an effective date."

was introduced, read the first time and referred to the Committees on Resources and Finance.

HB 906 HOUSE BILL NO. 906 by the Finance Committee, entitled:

"An Act making a special appropriation to the power project revolving fund; and providing for an effective date."

was introduced, read the first time and referred to the Finance Committee.

(IDENTICAL TO HB 904)

Senate Bill 562

"An Act relating to Alaska Land Policy

This bill, based on the recommendations of the Federal-State Land Use Policy Commission, seeks to provide a comprehensive land use policy for state land which will implement broad constitutional goals for both public and private purposes. These policies are to be sufficiently detailed to guide administration decision making. The legislature must approve annually, the Administration's state land disposal program.

The bill contains three major elements:

1) Policy for Use and Classification of State land and Surface. Article VIII of the Alaska Constitution mandates that the state provide for a balanced combination of public and private land use and to allocate suitable land for such use.

   Local involvement in land classification prior to disposal is provided for in order to balance public use against private which may be especially important in lands adjacent to communities.

2) Land Availability for Private Use. This section mandates that state land be made available to individuals on an annual basis in locations and parcel sizes that best meet differing needs in different parts of the state. A minimum of 50,000 acres shall be made available during the first year after enactment, no more than 10% of which shall be for leases. Thereafter, the Administration shall present to the legislature annually for its approval, three options for land disposal programs. These options will be a) an increased level program, b) a current level program, and c) a reduced level program. At least one option must include at least 50,000 acres.

3) Inventory, Planning and Classification. The bill requires the timely completion of an inventory of the resource values of all state lands. Through use of the inventory, land needs may be met with the best possible lands designated for the purpose intended. The designation of land use shall be accomplished in cooperation with local governments and the public.

In addition to existing state land management systems (State parks, trail systems, wild and scenic river systems, etc) a new classification called the State Public Reserve System is established for lands to be designated for multiple uses. The legislature would retain its existing authority to approve any designation of more than 640 acres which would close land to multiple use.

Further provisions establish guidelines for surven and subdivision, public access and easements.

I. REQUEST
Bill/Resolution No. HB 904 and SB 562
Title Alaska Land Policy
Requested by _____ Date 3/30/78

II. FISCAL DETAIL
Agency Affected Natural Resources
Program Category Affected NRMEC
Budget Request Unit(s) Affected Land & Water Management; Cadastral Engineer; Management and Administration (Lands); District Operations (Lands)

EXPENDITURES (Thousands of Dollars)

		FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100	PERSONAL SERVICES		1,866				
200	TRAVEL		98				
300	CONTRACTUAL		2,919				
400	COMMODITIES		56				
500	EQUIPMENT		87				
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		5,008				

FUNDING (Thousands of Dollars)

GENERAL FUND		5,008				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		69				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Detailed analysis and breakdown not yet completed. Will be completed and submitted on April 3, 1978. (See attached sheet for general breakdown)

N.B.

This fiscal note must be read in conjunction with the fiscal note for HB 905 (Land Disposal Act) since $4,579,631 in costs are identical in both bills (i.e. each bill mandates disposal of the same 50,000 acres). The additional cost of this bill, if HB 905 passes, is only $428,233.

Present municipal subdivision laws generally require actual construction of road access before sale of parcels under 40 acres in size. Unless the State is released from such requirements, the additional fiscal impact could be quite severe.

IV. DATE 3/30/78 PREPARED BY Douglas Mutter DJM
AGENCY DNR, Planning & Research Section
PHONE 274-8542

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/77)

50,000 acres disposal

COST SUMMARY
LAND POLICY ACT

DNR/ADL Section	Personal Services	Travel	Contractual	Commodity	Equipment	Totals
Planning/Classification	(9) $ 262,554	$17,300	$ 74,764	$ 3,100	$ 3,900	$ 361,618
Survey/Records	(15) 426,610	30,000	2,055,760	35,000	40,000	2,587,370
Land & Water Management	(27) 734,761	30,000	530,000	8,100	27,000	1,330,061
Administration	(8) 162,188	2,874	126,440	3,040	6,040	300,582
TOTALS	(59) $1,586,113	$80,174	$ 2,786,964	$49,240	$76,940	$4,579,631

Land inventory/assessment

Agency	Personal Services	Travel	Contractual	Commodity	Equipment	Totals
DNR	(10) $ 279,873	$17,200	$ 131,960	$ 6,200	$10,200	$ 428,233
Grand Totals	(69) $1,856,986	$97,374	$ 2,918,924	$55,440	$87,140	$5,007,364

Land Policy Act

(Front-end)

Minus

reimbursable survey costs (contractual only)	$1,815,760
fair market value for land (average $500 per acre)	25,000,000
Net Profit (long term)	$21,807,896

Preliminary

Estimated State Implementation Costs

Alaska Land Policy Act -- HB904, SB562

This preliminary statement analyzes the costs of implementing (1) the 50,000 acre minimum per year disposal directive and (2) the administration of the land inventory, assessment, coordination, etc. efforts. This is basically a first year cost analysis because Section 38.04.020 of the bill provides for an annual program as part of the administration's budget (at the 50,000 acre minimum level an estimated 5 percent inflationary factor could be added for each succeeding year).

1. 50,000 acre disposal TOTAL COST = $4.579,631/TOTAL PERSONNEL = 59 full time

The following acreages from the state's three principal disposal programs are assumed to comprise the first year's offerings (costs do not include provision of roads or services at sites):

Program	No. Sites	Acres/Site	Total Acres
Homesite	1,000	5	5,000
Open-to-entry	1,000	5	5,000
Agriculture and	500	20	10,000
general sales	250	40	10,000
	50	160	8,000
	25	320	8,000
	7	640	4,480
TOTALS	2,830 sites		50,480 acres

The following activities are assumed for any disposal program: (1) site identification and evaluation, (2) public information and community coordination, (3) subdivision and layout, (4) survey and records, (5) appraisal, (6) disposal and accounting, (7) administration, and (8) follow-up monitoring.

A. Estimated costs for (1) site identification and evaluation, (2) public information and community coordination, and (3) subdivision layout: $361,618/ 9 full time.

Personal Services (including 26% benefits)

Title	No. Positions	Grade	Amount
Planning Supervisor	1	21	$ 39,282
Land Mgmt. Officer III	4	18	124,659
Public Info. Officer II	1	17	29,242
Cartographer III	1	16	27,186
Planning Assistant	1	15	25,220
Clerk Typist IV	1	9	16,965
TOTAL	9	TOTAL	$262,554

Travel

per diem	$ 7,200
transportation	10,100
TOTAL	$17,300

Contractual

Media	$ 2,500
Community Land Market Analyses	30,000
Advertising	800
Communication	2,200
Printing	5,000
Equipment Rental	600
Aerial Photography	22,000
Space*	11,664
TOTAL	$74,764

Commodities

Cartographic supplies	$2,300
Other supplies	800
TOTAL	$3,100

Equipment

six desks @ 350 each	$2,100
seven chairs @ 140 each	1,000
one drafting table	700
one drafting chair	100
TOTAL	$3,900

*Space (includes janatorial, electric, telephone, and is included in totals as a contractual). Standard Formula: 80 ft.^{2}/person X $1.35/ft.^{2}/mo. X 12 = cost/year

B. Estimated costs for (4) survey and records: $2,587,370/15 full time

Personal Services (including 26% benefits)

Title	No. Positions	Grade	Amount
Cadastral Surveyor (Dist. offices)	3	20	$109,362
Cadastral Surveyor	1	20	43,848
Cartographer (Dist. offices)	3	15	75,660
Cartographer	1	15	30,240
Surveyor	1	19	33,914
Surveyor	2	16	54,372
Drafting Technician	1	14	23,451
Land Mgmt. Technician	1	12	20,533
Drafting Technician	1	11	19,278
Typist	1	8	15,952
TOTAL	15 (includes a surveyor & cartographer in each district)	TOTAL	$426,610

Travel

per diem (200 man-days @ $50/day)	$10,000
travel	18,000
miscellaneous transportation	2,000
TOTAL	$30,000

Contractual

Professional Services

- $600/5 acre tract for survey for 2,000 tracts = $1,200,000
- $25/acre for agricultural lands for survey 20 acre tract or smaller for 500 tracts = $250,000

acres for 332 tracts = $365,760

Space	$ 40,000
Data processing/records	200,000
TOTAL	$2,055,760

Commodities - TOTAL $35,000 (supplies, survey monuments, scientific/professional supplies, etc.)

Equipment - Office (chairs, desks)	$20,000
Field	20,000
TOTAL	$40,000

C. Estimated costs for (5) appraisal, (6) disposal and accounting, and (8) follow-up monitoring: $1,330,061/27 full time.

Personal Services

Title	No. Positions	Grade	Amount
LAND SECTION			
Land Management Officer III	1	18	$ 32,464
Land Management Office II	3	16	84,939
Land Management Officer I	1	14	24,725
Clerk/Typist III	1	8	16,315
SUB-TOTAL	6 For 12 months each		$158,443
WATER SECTION			
Land Management Officer III	1	18	$32,464
Land Management Officer II	1	16	28,313
SUB-TOTAL	2 For 12 months each		$60,777
FORESTRY SECTION			
Forester III	1	18	$ 32,464
Forester I	3	14	74,175
Clerk/Typist III	1	8	16,315
SUB-TOTAL	5 For 12 months each		$122,954
NORTHCENTRAL DISTRICT OFFICE			
Land Management Officer II	3	16	$ 90,090
Land Management Officer I	1	14	28,313
Clerk/Typist III	1	8	22,500
SUB-TOTAL	5 For 12 months each		$140,903

Title	No. Positions	Grade	Amount
SOUTHCENTRAL DISTRICT OFFICE			
Land Management Officer III	2	18	$ 64,928
Land Management Officer II	2	16	56,626
Land Management Officer I	1	14	24,725
Clerk/Typist III	1	8	16,315
SUB-TOTAL	6 For 12 months each		$162,594
SOUTHEAST DISTRICT OFFICE			
Land Management Officer III	1	18	$32,464
Land Management Officer II	2	14	56,626
SUB-TOTAL	3 For 12 months each		$89,090
TOTALS	27		$734,761

Travel

Land Section	$ 2,000
Water Section	3,000
Forestry Section	2,000
Northcentral	10,000
Southcentral	10,000
Southeast	3,000
TOTAL	$30,000

Contractual

Land Section	$ 30,000
Water Section	50,000
Forestry Section	15,000
Northcentral	175,000
Southcentral	175,000
Southeast	150,000
Space Rental	35,000
TOTAL	$530,000

Note: includes air charter, review appraisals, appraisals, forms, printing, advertising, communications, equipment rental, studies, computer terminal use, etc.

Commodities

Land Section	$1,800
Water Section	600
Forestry Section	1,500
Northcentral	1,500
Southcentral	1,800
Southeast	900
TOTAL	$8,100

Equipment

Land Section	$ 6,000
Water Section	2,000
Forestry Section	5,000
Northcentral	5,000
Southcentral	6,000
Southeast	3,000
TOTAL	$27,000

Note: includes tables, chairs, desks, calculators, typewriters, filing cabinets, etc.

D. Estimated costs for (7) administration: $300,582/8 full time.

Personal Services (including 26% benefits)

Title	No. Positions	Grade	Amount
Clerk Typist	4	8	$ 65,800
Upgrade WPC Supervisor			3,024
Personnel Technician I	1	12	21,181
Accounting Clerk II	2	8	37,969
Accountant III Upgrade			6,000
Supply Officer I	1	16	28,214
TOTAL	8		$162,188

Travel

Transportation	$1,578
Per diem	1,296
TOTAL	$2,874

Contractual

Computer programming	$ 58,000
Computer time	25,000
Space	8,640
State vehicle	4,800
Office equipment lease	30,000
TOTAL	$126,440

Commodities - TOTAL $3,040

Equipment

8 desks @ 350 each	$2,800
8 filing cabinets @ 175 each	1,400
3 calculators @ 240 each	720
8 chairs @ 140 each	1,120
TOTAL	$6,040

2. State land inventory/assessment TOTAL COST = $428,233/TOTAL PERSONNEL = 10 full ti

Personal Services (including 26% benefits)

Title	No. Positions	Grade	Amount
Principal Planner	1	21	$ 39,282
Systems Analyst	1	20	36,454
Senior Planner	1	19	33,914
Land Mgmt. Officer III	1	18	31,480
Publications Specialist II	1	16	27,186
Assistant Planner	1	15	25,220
Clerk Typist IV	2	9	33,930
Research Analyst	1	16	27,186
Cartographer II	1	15	25,221
TOTAL	10		$279,873

Travel

per diem	$ 7,100
transportation	10,100
TOTAL	$17,200

Contractual

Land inventory, socio-economic analysis, air photos, field survey, printing, media, etc.		$119,000
Space		12,960
	TOTAL	$131,960

Commodities - TOTAL $6,200

Equipment - TOTAL $10,200

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 905 + SB 568
Title Disposal of State Land
Requested by _____ Date 3/30/78

II. FISCAL DETAIL
Agency Affected Natural Resources and Lt. Governor's Office
Program Category Affected NRMEC and General Government
Budget Request Unit(s) Affected DNR: Land & Water Management; Cadastral Engineer; Management & Administration (Lands); District Operations (Lands); Lt. Governor's Office.

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES		2,243				
200 TRAVEL		92				
300 CONTRACTUAL		3,164				
400 COMMODITIES		91				
500 EQUIPMENT		91				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		5,679				

FUNDING (Thousands of Dollars)

GENERAL FUND		5,679				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		84				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Detailed analysis and breakdown not yet completed. Will be completed and submitted April 3 , 1978. (See attached sheet for general breakdown)

N. B.

This fiscal note must be read in conjunction with the fiscal note for HB 904 (Land Policy Act) since $4,579,631 in costs are identical in both bills (i.e. each bill mandates disposal of the same 50,000 acres). The additional cost of this bill, if HB 904 passes, is only $1,099,380.

Present municipal subdivision laws generally require actual construction of road access before sale of parcels under 40 acres in size. Unless the State is released from such requirements, the additional fiscal impact could be quite severe.

IV. DATE 3/30/78 PREPARED BY Douglas Mutter
AGENCY DNR, Planning & Research Section
PHONE 274-8542

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/77)

COST SUMMARY
LAND CREDIT ACT

1. 50,000 acres disposal

DNR/ADL Section	Personal Services	Travel	Contractual	Commodity	Equipment	Totals
A. Planning/Classification	(9) $ 262,554	$17,300	$ 74,764	$ 3,100	$ 3,900	$ 361,618
B. Survey/Records	(15) 426,610	30,000	2,055,760	35,000	40,000	2,587,370
C. Land & Water Mg	(27) 734,761	30,000	530,000	8,100	27,000	1,330,061
D. Administration	(8) 162,188	2,874	126,440	3,040	6,040	300,582
TOTALS	(59) $1,586,113	$80,174	$ 2,786,964	$49,240	$76,940	$4,579,631

2. Credit Administration

Agency	Personal Services	Travel	Contractual	Commodity	Equipment	Totals
A. DNR	(5) $141,565	$ -0-	$20,480	$ 1,500	$ 5,000	$168,545
B. Lieutenant Governor	(20) 514,653	11,180	356,002	40,000	9,000	930,835
TOTALS	(25) $656,218	$11,180	$376,482	$41,500	$14,000	$1,099,380

3. Grand Totals	(84) $2,242,331	$91,354	$3,163,446	$90,740	$90,940	$5,679,011

Land Credit Act (Front-end)

Minus

reimbursable survey costs (contractual only)	$1,815,760
10% cash payment (estimate average $500 price per acre)	$2,500,000
Net Costs (long-term)	$1,363,251

March 28, 1978

Preliminary

Estimated State Implementation Costs

Alaska Land Credit Act -- HB905 ← SB565

This preliminary statement analyzes the costs of implementing (1) the 50,000 acre minimum per year disposal directive and (2) the administration of the land credit program. This is basically a first year cost analysis because Section 38.05.041 of the bill provides for an annual program as part of the administration's budget (at the 50,000 acre minimum level an estimated 5 percent inflationary factor could be added for each succeeding year). Section 38.05.042(f) provides that the director determine reimbursable costs (i.e. roads, survey, utilities, etc.), which are not taken into account here, and which revenues from would most likely not be "earmarked" for program expenses. This analysis also does not attempt to forecast any income from the 10 percent total cash and 5 percent down payment provisions of Section 38.05.042(f).

1. 50,000 acre disposal TOTAL COST = $4,579,631/TOTAL PERSONNEL = 59 full time

The following acreages from the state's three principal disposal programs are assumed to comprise the first year's offerings (costs do not include provision of roads or services at sites):

Program	No. Sites	Acres/Site	Total Acres
Homesite	1,000	5	5,000
Open-to-entry	1,000	5	5,000
Agriculture and	500	20	10,000
general sales	250	40	10,000
	50	160	8,000
	25	320	8,000
	7	640	4,480
TOTALS	2,830 sites		50,480 acres

The following activities are assumed for any disposal program: (1) site identification and evaluation, (2) public information and community coordination, (3) subdivision and layout, (4) survey and records, (5) appraisal, (6) disposal and accounting, (7) administration, and (8) follow-up monitoring.

A. Estimated costs for (1) site identification and evaluation, (2) public information and community coordination, and (3) subdivision layout: $361,618/ 9 full time.

Personal Services (including 26% benefits)

Title	No. Positions	Grade	Amount
Planning Supervisor	1	21	$ 39,282
Land Mgmt. Officer III	4	18	124,659
Public Info. Officer II	1	17	29,242
Cartographer III	1	16	27,186
Planning Assistant	1	15	25,220
Clerk Typist IV	1	9	16,965
TOTAL	9	TOTAL	$262,554

Travel

per diem	$ 7,200
transportation	10,100
TOTAL	$17,300

Contractual

Media	$ 2,500
Community Land Market Analyses	30,000
Advertising	800
Communication	2,200
Printing	5,000
Equipment Rental	600
Aerial Photography	22,000
Space*	11,664
TOTAL	$74,764

Commodities

Cartographic supplies	$2,300
Other supplies	800
TOTAL	$3,100

Equipment

six desks @ 350 each	$2,100
seven chairs @ 140 each	1,000
one drafting table	700
one drafting chair	100
TOTAL	$3,900

*Space (includes janatorial, electric, telephone, and is included in totals as a contractual). Standard Formula: 80 ft.^{2}/person X $1.35/ft.^{2}/mo. X 12 = cost/year

B. Estimated costs for (4) survey and records: $2,587,370/15 full time

Personal Services (including 26% benefits)

Title	No. Positions	Grade	Amount
Cadastral Surveyor (Dist. offices)	3	20	$109,362
Cadastral Surveyor	1	20	43,848
Cartographer (Dist. offices)	3	15	75,660
Cartographer	1	15	30,240
Surveyor	1	19	33,914
Surveyor	2	16	54,372
Drafting Technician	1	14	23,451
Land Mgmt. Technician	1	12	20,533
Drafting Technician	1	11	19,278
Typist	1	8	15,952
TOTAL	15 (includes a surveyor & cartographer in each district)	TOTAL	$426,610

Travel

per diem (200 man-days @ $50/day)	$10,000
travel	18,000
miscellaneous transportation	2,000
TOTAL	$30,000

Contractual

Professional Services

- $600/5 acre tract for survey for 2,000 tracts = $1,200,000
- $25/acre for agricultural lands for survey 20 acre tract or smaller for 500 tracts = $250,000

- $12/acre for agricultural lands survey for tracts larger than 20 acres for 332 tracts = $365,760

Space	$ 40,000
Data processing/records	200,000
TOTAL	$2,055,760

Commodities - TOTAL $35,000 (supplies, survey monuments, scientific/professional supplies, etc.)

Equipment - Office (chairs, desks)	$20,000
Field	20,000
TOTAL	$40,000

C. Estimated costs for (5) appraisal, (6) disposal and accounting, and (8) follow-up monitoring: $1,330,061/27 full time.

Personal Services

Title	No. Positions	Grade	Amount
LAND SECTION			
Land Management Officer III	1	18	$ 32,464
Land Management Officer II	3	16	84,939
Land Management Officer I	1	14	24,725
Clerk/Typist III	1	8	16,315
SUB-TOTAL	6 For 12 months each		$158,443
WATER SECTION			
Land Management Officer III	1	18	$32,464
Land Management Officer II	1	16	28,313
SUB-TOTAL	2 For 12 months each		$60,777
FORESTRY SECTION			
Forester III	1	18	$ 32,464
Forester I	3	14	74,175
Clerk/Typist III	1	8	16,315
SUB-TOTAL	5 For 12 months each		$122,954
NORTHCENTRAL DISTRICT OFFICE			
Land Management Officer II	3	16	$ 90,090
Land Management Officer I	1	14	28,313
Clerk/Typist III	1	8	22,500
SUB-TOTAL	5 For 12 months each		$140,903

Title	No. Positions	Grade	Amount
SOUTHCENTRAL DISTRICT OFFICE			
Land Management Officer III	2	18	$ 64,928
Land Management Officer II	2	16	56,626
Land Management Officer I	1	14	24,725
Clerk/Typist III	1	8	16,315
SUB-TOTAL	6 For 12 months each		$162,594
SOUTHEAST DISTRICT OFFICE			
Land Management Officer III	1	18	$32,464
Land Management Officer II	2	14	56,626
SUB-TOTAL	3 For 12 months each		$89,090
TOTALS	27		$734,761

Travel

Land Section	$ 2,000
Water Section	3,000
Forestry Section	2,000
Northcentral	10,000
Southcentral	10,000
Southeast	3,000
	$30,000

Contractual

Land Section	$ 30,000
Water Section	50,000
Forestry Section	15,000
Northcentral	175,000
Southcentral	175,000
Southeast	150,000
Space Rental	35,000
TOTAL	$530,000

Note: includes air charter, review appraisals, appraisals, forms, printing, advertising, communications, equipment rental, studies, computer terminal use, etc.

Commodities

Land Section	$1,800
Water Section	600
Forestry Section	1,500
Northcentral	1,500
Southcentral	1,800
Southeast	900
TOTAL	$8,100

Equipment

Land Section	$ 6,000
Water Section	2,000
Forestry Section	5,000
Northcentral	5,000
Southcentral	6,000
Southeast	3,000
TOTAL	$27,000

Note: includes tables, chairs, desks, calculators, typewriters, filing cabinets, etc.

D. Estimated costs for (7) administration: $300,582/8 full time.

Personal Services (including 26% benefits)

Title	No. Positions	Grade	Amount
Clerk Typist	4	8	$ 65,800
Upgrade WPC Supervisor			3,024
Personnel Technician I	1	12	21,181
Accounting Clerk II	2	8	37,969
Accountant III Upgrade			6,000
Supply Officer I	1	16	28,214
TOTAL	8		$162,188

Travel

Transportation	$1,578
Per diem	1,296
TOTAL	$2,874

Contractual

Computer programming	$ 58,000
Computer time	25,000
Space	8,640
State vehicle	4,800
Office equipment lease	30,000
TOTAL	$126,440

Commodities - TOTAL $3,040

Equipment

8 desks @ 350 each	$2,800
8 filing cabinets @ 175 each	1,400
3 calculators @ 240 each	720
8 chairs @ 140 each	1,120
TOTAL	$6,040

2. Land credit administration TOTAL COST = $1,099,380/TOTAL PERSONNEL = 25 full time

A. Estimated costs for administering the land credit program responsibilities of the Division of Land and Water Management: $168,545/5 full time.

Personal Services (including 26% benefits)

Office	Title	No. Positions	Grade	Amount
Land Section	Land Management Officer II	2	16	$ 56,626
NCDO	Land Management Officer II	1	16	28,313
SCDO	Land Management Officer II	1	16	28,313
SEDO	Land Management Officer II	1	16	28,313
	TOTAL	5		$141,565

Travel - No cost

Contractual

Land Section	$ 5,000
NCDO	3,000
SCDO	3,000
SEDO	3,000
Space	6,480
TOTAL	$20,480

Commodities

Land Section	$ 600
NCDO	300
SCDO	300
SEDO	300
TOTAL	$1,500

Equipment

Land Section	$2,000
NCDO	1,000
SCDO	1,000
SEDO	1,000
TOTAL	$5,000

B. Estimated costs for investigation, issuance and administration of the land credit program responsibilities of the Lieutenant Governor's office: $930,835/ 20 full time.

100 Personal Services

Location	Title	No. Positions	Grade	Yearly Salary
Anchorage	Director	1	25	$3,445 X 12 = $ 41,340
	Secretary I	1	10	1,137 X 12 = 13,644
	Research Analyst III	1	18	1,983 X 12 = 23,796
	Research Analyst II	1	16	1,712 X 12 = 20,544
	Research Analyst II	1	16	1,712 X 12 = 20,544
	Clerk Typist III	1	8	1,005 X 12 = 12,060
	Clerk Typist III	1	8	1,005 X 12 = 12,060
	Clerk Typist III	1	8	1,005 X 12 = 12,060
			SUB-TOTAL	$156,048
Juneau	Deputy Director	1	23	$2,867 X 12 = $ 34,404
	Secretary I	1	10	1,137 X 12 = 13,644
	Research Analyst III	1	18	1,983 X 12 = 23,796
	Research Analyst II	1	16	1,712 X 12 = 20,544
	Clerk Typist III	1	8	1,005 X 12 = 12,060
			SUB-TOTAL	$ 70,482
Fairbanks	Deputy Director	1	23	$3,319 X 12 = $ 39,828
	Secretary I	1	10	1,239 X 12 = 14,868
	Research Analyst III	1	18	2,296 X 12 = 27,552
	Research Analyst II	1	16	1,983 X 12 = 23,796
	Clerk Typist III	1	8	1,137 X 12 = 13,644
			SUB-TOTAL	$119,688
Nome	Research Analyst III	1	18	$2,661 X 12 = $ 31,932
Bethel	Research Analyst III	1	18	$2,661 X 12 = $ 31,932
		TOTAL BASE SALARIES (1st year)		$410,082
		BENEFITS @ 25.5%		+ 104,571
		TOTALS	20	$514,653

200 Travel

Based on 4 trips to Anchorage per year for each Deputy Director and Research Analysts in Nome and Bethel ... (Quarterly meetings). Plus general field travel of $6,000 per year ($3,000 general plane fare + $3,000 per diem).

Field/Administrative travel (In-State)

	Transportation	Per Diem
Juneau to Anchorage (round trip) (Deputy Director)		
4 trips per year estimated $175 per trip	$ 700	
3 days per trip X 4 estimated $55 per day		$ 660
Fairbanks to Anchorage (round trip) (Deputy Director)		
4 trips per year estimated $110 per trip	440	
3 days per trip X 4 estimated $55 per day		660
Nome to Anchorage (round trip) (Research Analyst III)		
4 trips per year estimated $200 per trip	800	
3 days per trip X 4 estimated $55 per day		660
Bethel to Anchorage (round trip) (Research Analyst III)		
4 trips per year estimated $150 per trip	600	
3 days per trip X 4 estimated $55 per day		660
TOTAL	$2,540	$2,640

Transportation Costs	$ 2,540
Per Diem Costs	2,640
General field travel (plane fare and per diem)	6,000
GRAND TOTAL	$11,180

300 Constractual Services (1st year costs)

310 Communications (based on Lieutenant Governor's office budget - FY 79)

Telephone

Average $2,100 per office X 5 offices	$ 10,500
Long distance, telegraph $5,500 X 5 offices	27,500

Postage

250,000 eligible Alaskans X .39 (2-3 mailings each)	97,500

Centrex - Juneau office only 1,400

SUB-TOTAL $136,900

320 Printing and Advertising

Certificates printed at approximately $250.00 for 5,000 (5,000 X 50 = 250,000) $250 X 50 =	$12,500
General usage forms	5,000
Applications, etc. (envelopes, stationery printed)	20,000
Miscellaneous printing costs	5,000
325 Advertising	1,500
SUB-TOTAL	$44,000

330 Rents and Utilities

(Space based on formula of 252 sq. ft./Directors; 126 sq. ft./Adm. staff; 47 sq. ft./Clerical and each reception area large enough for 8 visitors (Contract Awards Manual) (345 sq. ft.))

Anchorage

1,086 sq. ft. required @ $1.50/sq. ft. = $1,629/mo. X 12 mos. =	$19,548

Juneau

866 sq. ft. required @ $1.50/sq. ft. = $1,299/mo. X 12 mos. =	15,588

Fairbanks

866 sq. ft. required @ $1.50/sq. ft. = $1,299/mo. X 12 mos. X .20 increase for Fairbanks area	18,706
No additional space required in Nome and Bethel - Governor's Office utilized	
SUB-TOTAL	$53,842

350 Other Utilities (Estimate only)	$18,000
360 Equipment Rental - Other	
Xerox copier (5 offices) $165/mo. X 12 X 5	9,900
364 Equipment Rental - Word Processing	
Mag II Typewriters @ $310/mo.	
Anchorage 5 typewriters @ $310/mo. X 12	18,600
Juneau 3 typewriters @ $310/mo. X 12	11,160
Fairbanks 3 typewriters @ $310/mo. X 12	11,160

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB 904	4/12/78	F.S.L.U.P. Commission	4/19/78
	4/14/78	Dept. of Natural Resources	"
	"	Geoff Haynes	"
	"	U.S. Forest Service	"
	"	Keith Specking	"
	"	Terry Palczer, C.M.A.L.	"

STATE LAND REPORT

29:

733 W. FOURTH AVE.
ANCHORAGE, ALASKA

FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

STATE LAND POLICY RECOMMENDATIONS

AND

BACKGROUND PAPERS

DECEMBER, 1977

Federal-State
Land Use Planning Commission
For Alaska

December, 1977

On May 17, 1977, Senator Kay Poland, Chairman of the Senate Resources Committee, asked the Commission to analyze the location, availability, and demand for private land in Alaska as it would be after the implementation of the Alaska Native Claims Settlement Act. The specific types of demand for private property and their relation to appropriate land disposal procedures was considered to be of particular interest to the Resources Committees of the House and Senate. The purpose of the inquiry was to solicit information that could aid these Committees in their formulation of State land disposal policy.

Part I of this report presents the findings and recommendations of the Federal-State Land Use Planning Commission regarding retention and disposal policy and procedure for State public lands. The findings were based on staff research; work with the Alaska Department of Natural Resources Planning and Research Section and Division of Lands and Waters; contact with municipalities and Native corporations; and a public workshop featuring people with land use and development experience and expertise. Part II of this report contains the abbreviated proceedings of this workshop and a representative sample of the information analyzed in the process of making these recommendations.

We hope that this background document will benefit the continuing legislative dialogue concerning the disposition and management of State lands.

In addition to these efforts, the Federal-State Land Use Planning Commission continues to explore State policy and practice concerning park and recreation areas. As requested by Senator Poland, the Commission will prepare specific recommendations regarding criteria and policy for establishing State parks later this year.

Sincerely yours,

Esther C. Wunnicke
Federal Co-Chairman

Sincerely yours,

Walter B. Parker
State Co-Chairman

733 W. FOURTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501

JOINT FEDERAL-STATE
LAND USE PLANNING COMMISSION
FOR ALASKA

733 W. Fourth Avenue, Suite 400
Anchorage, Alaska 99501

CO-CHAIRMEN

Esther C. Wunnicke	Walter B. Parker
Federal Co-Chairman	State Co-Chairman

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Richard A. Cooley	Phil R. Holdsworth
Joseph H. FitzGerald	James J. Hurley
Celia M. Hunter	John W. Schaeffer
Norman Gorsuch	George W. Rogers

STATE LANDS SUBCOMMITTEE

Phil R. Holdsworth
James J. Hurley
Norman Gorsuch

Principal Staff for State Lands Project

Janet McCabe
Sally Gibert
Tom Hawkins

"STATE LAND POLICY RECOMMENDATIONS AND BACKGROUND PAPERS"

December, 1977

PART I

STATE LAND POLICY RECOMMENDATIONS

Adopted by the
Joint Federal-State Land Use Planning Commission for Alaska

PART II

BACKGROUND PAPERS ON MAJOR LAND POLICY ISSUES

Compiled and edited by the
Federal-State Land Use Planning Commission Staff
from Federal, State, and Private Sources

PART I

STATE LAND
POLICY RECOMMENDATIONS

CONTENTS

STATUTORY GUIDELINES FOR RETENTION AND DISPOSAL OF STATE LANDS

Recommended by the
Joint Federal-State Land Use Planning Commission
December, 1977

1. Public interest in State lands. State owned public lands belong to all citizens of the State. Thus, any action affecting the disposition of State owned lands must be consistent with the general public interest and must recognize the property rights to these lands which are owned by all citizens.

2. Interests of future generations. In planning the allocation and disposition of State lands, the requirements of future generations must be considered. To this end, a supply of State lands of the various available types and locations shall be reserved to provide an opportunity for future decisions.

3. Need for a balanced combination of public and private land use. Some types of land use, such as hunting, fishing, skiing, snowmobiling, enjoyment of natural lands and wilderness, trapping, and many forms of resource development, can be made available to more people and conducted more successfully if the land is publically owned rather than divided among private owners. For other forms of land use, particularly land uses associated with community development and settlement, private property rights are necessary either through ownership or less than fee simple conveyance. Thus, making State lands available for maximum use and development, in accordance with Alaska's constitution, will require a balanced combination of lands under both public and private land use rights.

4. Inventory, planning, and classification of State lands and resources. The public interest in State lands will be best realized if State owned lands and resources are periodically and systematically inventoried and their future uses projected through a land use planning process which includes consideration of characteristics of the land and natural enviornment, as well as social and economic factors, and provides for meaningful participation by local governments, adjacent land owners and the general public. Classification of State lands shall be based on such a comprehensive planning process.

5. Inventory of private and municipal lands and local wishes. To gain adequate perspective on needs for State land disposal or retention, the director shall also conduct a periodic and systematic inventory of the supply and quality of private and municipal lands available in all regions where the State owns land. As part of this inventory, he shall ascertain local wishes concerning the retention and disposal of State lands. Planning and classification of State lands for

disposal purposes shall reflect the adequacy or inadequacy of the supply of suitable land from private and municipal sources as well as local wishes about State land management.

6. Retention of State lands for public use near communities. In classifying State lands for settlement purposes, the director shall seek to retain nearby accessible lands in State, municipal, or other public ownership so that natural areas are easily reached from all communities and settled areas. The amount of such lands shall be sufficient to existing and projected needs for accessible public recreation lands. Special care shall be taken to preserve public access to public waters and to retain State ownership of lands which combine high recreational value with accessibility to settled areas.

7. Primary public interest in retaining State lands in public ownership. The primary public interests in retaining State lands in public ownership are:
   a. to make them available for hunting, fishing, natural area recreation, governmental installations, and other types of land use and resource development which generally require public rather than private land ownership;
   b. to protect areas of critical wildlife habitat and of special scenic, recreational, or other environmental concern;
   c. to restrict development in hazardous locations; and
   d. to guide the location of settlement and development to minimize public costs and maximize social and economic benifits.

8. Primary public interest in conveying rights to State lands to private parties. The primary public interest in conveying rights to State lands to private parties is to make them available to individuals and corporations for direct use and construction in locations suitable for the land use intended. Conveying State lands in a manner which primarily accommodates parties whose purpose is to hold and resell vacant lands for financial gain is contrary to the public interest, except in areas where there is a real scarcity of vacant land on the private market.

9. Avoiding new settlement in areas where a viable economic base is improbable. Settlement in rural areas where there is little or no source of employment and income can burden the general public with extreme costs for schools, roads, police protection, and other public services. If a dispersed population pattern is to be encouraged, it should be based on development of a local economy creating employment or jobs.

10. Designing lot sizes and disposal methods to further needs of different land users. In planning land disposal actions, the director shall seek to accommodate parties with a current need and use for the

land. Different users of State lands, for example, people seeking a weekend cabin site, people looking for a wilderness homesite, agricultural and industrial developers, have very different requirements in terms of location, tract size, and methods of tenure. To accommodate these different needs, the director shall assess the special requirments of prospective users and shall design a comprehensive set of methods of conveying rights to State lands, tailored to fit various needs. Lots and tracts in disposal areas shall be sized to fit the requirements of individual users and to reflect the physical limitations of the land. Within these constraints, disposal areas shall be divided to maximize the number of individual recipients.

11. Provisions of access. Adequate access is essential to both public and private use of State lands. State lands which are made available for settlement purposes shall have access from water or, where appropriate, the State shall arrange for the development of surface access. The direct costs of access development shall be born by the recipient of the land. In planning conveyance of State lands to private parties, necessary easements and rights-of-way for public travel shall be reserved to provide access to public waters and to public and private lands beyond the disposal area.

12. Disposal to be at market value. Except where justified by a clear public interest, State land disposals shall make land available at market value. In cases where the State conveys limited rights to lands, the price of the land shall be adjusted to reflect reduced market value. In any case, the costs of survey and other direct costs of disposal shall be born by the recipient of the land.

13. Avoiding preference rights. Granting preferance rights to any special group or class of citizens shall be avoided.

14. Regulations providing for municipal and State agency participation. Regulations shall be adopted to establish the participation of affected municipalities and State agencies in making determinations regarding the suitability of various State lands for retention in public ownership or conveyance to private users.

15. Regulations establishing a system for registering private interests. Regulations shall also establish a method whereby private citizens can register their interest in retention or conveyance of a given area of State land.

16. Minimizing administrative costs and establishing public trust. As far as possible, methods of conveying State land rights to private parties shall be designed to minimize future administrative requirements and to establish public trust in the responsiveness, fairness, and consistency of State land management.

LEASING OF STATE LANDS

Findings and Recommendations of the
Joint Federal-State Land Use Planning Commission
December, 1977

Alaska's constitution calls for the maximum use and development of its lands consistent with the public interest. As a land management tool, leasing is designed to accommodate both objectives, to enable development and land use while protecting the public interest. The panelists at the recent State Land Disposal Policy workshop agreed that State land managers could use a leasing program to further the interests of both the land owners and the users. The panelists also recognized that along with providing benefits for both private and public interests, there is a growing public recognition that leasing is a land management technique that can be useful in Alaska. Financial institutions have become more accustomed to financing development on leasehod interests as well. But, before this tool can be fully utilized by State government, certain requirements must be met.

Under past administrations, leasing has not always been used appropriately and effectively and has failed to realize its potential. In addition, the current statute has brought leasing of State lands to a standstill. The deliberations of the panelists, coupled with the investigation of leasing policy in other States and an analysis of lease administration in Alaska, prompts the following findings and recommendations:

Findings:

1. Leasing is an effective technique under certain conditions and in particular situations:
   a. When special land use controls are required and there is a high public interest in seeing certain classes of land used for particular purposes;
   b. When the intended use is a temporary one, as in non-renewable resource extraction;
   c. In commercial-industrial situations when a leasehold can provide cash flow and tax advantages to the lessee;
   d. When a unique location with special public values is involved, as in a deep water port;
   e. When demand for private use is high, but projections suggest that, in the future, the land may be more valuable for public use; and
   f. When property values are high and market demand intense, the State can earn significant revenue through leasing, but proper timing of leasing activity is crucial to success.

2. A major problem with the State leasing program in the past has been lack of sophisticated administration. In order to be effective as lessors, State land managers must:

   a. Recognize that prompt, accurate appraisal and rental adjustment insures that State lessees pay rates similar to adjacent private property owners. This provides revenue to the State, encourages effective land use, prevents the State from competing unfairly with the private sector, and builds trust and predictability in State land management practices;
   b. Employ knowledgeable personnel who are familiar with leasing policy and experienced with and sensitive to the requirements of private financial institutions;
   c. Employ leasing techniques in appropriate situations such as locations where demand to use the land is high;
   d. Insure that tract sizes are consistent with the requirements of the user; and
   e. Establish rental adjustment ceilings that allow lessees to foresee rental rates for at least 10 years in advance.

3. The current State leasing statute is unworkable for the following reasons:

   a. The current statute does not permit the State to keep its annual rental at market rates;
   b. The current statute is being tested in court by the trust board because trust land transactions must be at fair market value. This is not possible under current law.
   c. The current statute encourages speculation in State leaseholds because the 25 year reappraisal period and 50% limit on rental adjustment after 25 years ensure that State lease rates will be considerably below market value for comparable properties. At normal inflation rates the current reappraisal and rental adjustment process will not even keep pace with the declining value of the dollar.
   d. The State cannot adjust leasehold rentals to recover investments it makes in infrastructure development such as road and sewer construction.
   e. By granting existing leaseholders a windfall, the new lease law conveys a special privilege to a few citizens at a financial cost to the general public.
   f. The multiple appraisals called for in the statute are too expensive to be practicable except in limited instances when tract values are extremely high.

g. The present statute does not clarify the award of damages in those cases where leased State lands are condemned for public purposes.
h. At the termination of a lease under current statute, the lessee will have gained a substantial leasehold interest so valuable that conversion to a proper rate schedule would be tantamount to confiscation. Such a conversion would be politically and economically difficult to implement. In effect, this would diminish, if not abolish, State control of the land.

Recommendations:

1. The Legislature should amend the leasing statute to see that:

   a. Leaseholds are reappraised and rentals adjusted on a 5 year basis;
   b. Rental adjustments are limited to an increase of 100% over a 5 year period;
   c. Appraisal requirements reflect a reasonable relationship between the cost of appraisal services and the value of the parcel involved; and
   d. Aggrieved lessees have access to an administrative appeal mechanism.
   e. Condemnation awards to lessees of State land should exclude compensation for leasehold interest based on submarket rental rates.
   f. Trust land development and management costs should be charged against trust land revenues.

2. Care should be taken by State administrative personnel to utilize leasing as a management tool only where it is well suited to the purposes intended.

3. The budgets approved for land administration must provide for both the quality and quantity of staffing necessary to guarantee prompt and competent appraisal and administration of State leaseholds.

4. State leasing policy must be sufficiently consistent to provide a reliable basis for lending.

STATE TRUST LANDS

Findings and Recommendations of the
Joint Federal-State Land Use Planning Commission
December, 1977

Findings:

1. Before Statehood, the Federal government granted certain lands to the Territory of Alaska for the benefit of the University of Alaska (100,000 acres), the public school system (109,000 acres), and the mental health program (1,000,000 acres). Original Federal legislation making these reservations included precise terms governing the management of land and the revenues received therefrom.

2. The Statehood Act conveyed these preestablished trust responsibilites to the State of Alaska. Because of repealer clauses in the sections of the Statehood Act pertaining to University and school lands, the State is not bound by the precise terms of previous Federal legislation relating to these lands, however, a trust responsibility remains.

3. The statutes require separate funds for revenues gained from school and University lands, but there is no special fund for the mental health program. Instead, these revenues have been placed in the general fund.

4. By statute, the director must manage mental health lands for the support of the mental health program. Revenues derived from management of these lands must be used first for support of this program, and any excess deposited in the general fund.

5. Since the school, University, and mental health lands are held in trust for the financial support of these programs, it is normally incumbent upon the State to handle transactions of trust lands on the basis of fair market value. Revenues derived from school and University lands must be invested and the interest allocated to the support of the respective programs.

6. School lands were granted under the historic "in-place" system of conveying sections 16 and 36 in each township. The State only received those school lands which had been surveyed as of the date of statehood. However, since surveying was concentrated near communities, several of the State's school land sections are stategically located in urban growth areas.

7. Most of the university lands and all of the mental health lands have been selected "at large" from vacant, unreserved

public lands. University lands could only be selected from non-mineral, surveyed lands, requirements which placed them directly in the already settled areas. Since selections were for the purpose of maximizing real estate value, and were accomplished prior to the State's general grant selections, lands in the University and mental health trusts comprise prime real estate around communities and in valuable waterfront locations.

8. Because of the strategic location of trust lands in relation to community development and settlement, management decisions affecting trust lands have had, and will have, a major impact on community growth patterns.

9. The effect of vacant trust lands on community growth patterns has been random and varied. Some communities have grown around trust lands, leaving trust lands as windows of open space in heavily settled areas. In Anchorage, State trust lands are zoned "Public Lands and Institutions", a designation which prohibits private development. In Southeastern communities, where trust lands are numerous, the effect has been to either compress and consolidate community growth or to force a "leapfrog" pattern that is costly in terms of public utilities and services.

10. There are probable conflicts between the State's general welfare objective of achieving a desirable land use pattern and the State's obligation to the trust to obtain fair market value from trust lands. In some cases, the trust lands are well suited as parks, but this use may conflict with the State's long-term responsibility as trustee to manage the lands for revenue.

11. In acting as the land management agent for all three trusts, the Division of Lands may have a built-in conflict of interest where it manages lands for more than one trust in the same location.

12. The trust boards have never developed land management guidelines, and, in turn, the State has failed to actively manage trust lands to obtain market value for the trusts. The State has not charged the trust boards for management services, but few services have been rendered.

13. Alaska municipalities would like to select trust lands because of their desireable location and value for community development or public use purposes.

14. Under current State statutes, trust lands are subject to legislation granting preference rights to certain groups that make them available for less than market value.

15. Under current State statutes some trust lands are available for mineral staking and, therefore, for acquisition of private property rights at less than market value.

16. Under the new lease law, passed in 1977, the State undermined the administration's ability to manage leaseholds on trust lands at market value.

17. The permanent fund requirements, which make no distinction between mineral revenues from trust lands and general grant lands, are inconsistent with the State's trust responsibilities.

Recommendations:

1. The trust boards should clearly define their objectives regarding the lands which the State holds in trust for the public schools, the University, and the mental health program. In the absence of a specific statute defining trust responsiblities in Alaska, these objectives must conform to general trust standards. The Division of Lands shall manage trust lands as the agent of the trusts, in accordance with these objectives.

2. If the primary objective of the trust boards is to use lands for revenue, then this objective may conflict with the State and municipal objective of achieving a sound land use pattern. This conflict could be resolved, without compromise by either party, through an exchange of existing trust lands for an equally valuable interest in State surface or subsurface elsewhere. Such exchanges must comply with the "prudent person" standard of trust investment.

3. The definition of State land, as used in statutes pertaining to the permanent fund, preference rights, lease holders rights, and other topics, should distinguish between State general grant lands and trust lands. State statutes which abridge the trust responsibilities should be amended.

4. A separate statutory fund should be created for the proceeds from the mental health lands.

BUDGETING FOR STATE LAND MANAGEMENT

Findings and Recommendations of the
Joint Federal-State Land Use Planning Commission
December, 1977

Findings:

1. Achieving effective, responsive administration of programs conveying State land rights to private parties will require that the administrative capacity of the Division of Lands be expanded. Additional professional expertise in leasing, appraisal, permitting, easements, sales, and other aspects of land management must be acquired.

2. Topographic mapping, site planning, land survey, and access development are essential elements of any land disposal program. To convey State land rights to private owners in a manner which accommodates the variety of their different needs and makes good use of available land, the Division of Lands must have the staff and budget to satisfy these requirements.

3. Resource inventory, land use planning, consultation with local people, and classification of State lands must proceed apace with any disposal of State land rights to private parties. Current funding for these efforts is inadequate in relation to the amount and complexity of State land ownership.

Recommendation:

That the Legislature work closely with the Department of Natural Resources to develop and fund a budget that is sufficient to support the State's responsibilities for planning and managing State lands for both retention and disposal purposes.

PART II

BACKGROUND PAPERS ON MAJOR LAND POLICY ISSUES

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workshop

W O R K S H O P

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WORKSHOP

Introduction

On Tuesday, November 29, 1977, the State Lands Subcommittee of the Federal-State Land Use Planning Commission (FSLUPC) held a workshop to discuss State land disposal policy. Legislators were invited to attend the session, as well as a variety of opinion leaders and experts in the fields of land management and real estate economics. People familiar with the costs and impacts of land development were represented also.

Formal Workshop Participants:

Virgina dal Piaz, Land Planner and Environmentalist
Bob Arwezon, Anchorage Real Estate Developer
John Norman, Managing Partner, Cole, Rhodes, Hartig, Norman, and Mahoney
Wes Howe, Matanuska-Susitna Borough Manager
Ted Smith, Director, Division of Lands and Water
Herb Lang, President, Anchorage Sand and Gravel
Don Karabelnikoff, Real Estate Consultant, City and Borough Development
Earl Miller, Vice President, Alaska Mutual Savings
David McCabe, General Partner. Alaska Mortgage Group
Andy Hoge, Attorney - Hoge, Lekisch, Cardwell, and Lawrence
James Hurley, FSLUPC, Commissioner
Hugh Gellert, President, Bear-Fritz, Inc.
Phil Holdsworth, FSLUPC, Commissioner
Steve Reeve, Chief - Classifications, Alaska Division of Lands
Dale Tubbs, Land Management Consultant, Moening-Grey & Associates
Norman Gorsuch, FSLUPC, Commissioner
Esther C. Wunnicke, FSLUPC, Federal Co-Chairman
Walter B. Parker, FSLUPC, State Co-Chairman
Janet McCabe, FSLUPC, Land Management Planner

AGENDA

8:30 Introduction

Briefing on Supply, Location and Accessibility of State Land

9:00 Statutory Guidelines for State Land Disposal

1. Do the existing statutes provide adequate guidance to the administration in terms of purpose, amount, location, and timing of State land disposal?
2. In deciding about disposal actions and programs, what should be the role of the legislature and what should be the role of the administration?
3. If you were to write a guidelines for State land disposal--purposes, amounts, and timing--what would you include?

10:30 Disposal Methods

1. Considering the various forms of demand for State lands, what is the public interest in disposing of public lands for various purposes? Which types of demand for State land should be accommodated?
2. How would you identify the different types of demand for which State land should be made available and which methods of disposal are best suited to each type? What is your advise on tract size and pricing as well as the method of conveying rights to land?

1:30 Leasing

1. In what locations and situations is leasing an appropriate method of land disposal?
2. What were the problems with the State's prior leasing program and what were the reasons for these problems?
3. In the past, leasing has been a barrier to financing. Is this situation changing?
4. What will be the affects of the new leasing law? Would you recommend that it be amended? If so, how?

2:30 Trust Lands

1. How have the trust lands influenced land planning and management?
2. What advantages and disadvantages have prior management of trust lands had for the State as a whole and for the trusts?
3. Are there changes in legislation, regulations, or management of trust lands that you would advise?

3:30 Budgetary Implications

1. What is a typical pattern of public cost and revenue for new settlement on State lands in a remote area?
2. What budetary adjustments will be necessary if the State embarks on a program of disposing of individually sized lots provided with access?
3. What are the administrative and budgetary implications of disposing of lands in a manner which retains some rights in State ownership?

Workshop Proceedings On
State Land Disposal Policy

Statutory Guidelines for State Land Disposal

The workshop opened with a discussion of statutory guidelines for State land utilization. Virginia dal Piaz, Alaska Center for the Environment, joined Bob Arwezon, Anchorage real estate developer, and John Norman, past State assistant attorney general and local attorney, in this discussion.

Following the introductory remarks, Virgina dal Piaz, representing an environmental perspective, preceded the discussion of statutory guidelines for State land disposal by noting Alaska's role as the last frontier. For years we have been the most prodigal of people with land and we have wasted it, along with other finite resources, with impunity. Peoples' right to land is one of the most basic principles of our national heritage. There was always so much of it and no matter how we fouled it, there was always more over the next hill--or so it seemed.

We are now at the "last frontier" as development in the United States has spread over the continent from East to West and now North. Alaska is probably one of the last places on Earth where we know enough about mistakes made elsewhere that land use and development can take place compatably with the environment and character of the Northland. America needs a new land ethic--and attitude that considers the needs and requirements of the land first and which then attempts to foster human relationships with the land to the greatest extent possible. The farther removed people are from the land and responsibility for it, the more careless and destructive they are of it.

She felt that the existing statutory guidelines were inadequate because we do not fully know the amount and location of all State lands. The role of the legislature should consist of gathering input from the administration, public, and possibly consultants; and then setting a comprehensive policy with broadly stated goals for State land disposal. The administration should conduct research and planning, as well as manage and enforce the policy set forth by the legislature.

Dal Piaz recommended the following guidelines: The State should rely on leasing for specified uses and should avoid land sales. Before disposing of additional land, the State should complete an inventory of lands that consider location and physical suitability for development. It appears that there is very little State land suitable for development, and the bulk of State land should be left for future generations. The State should move slowly and only lease a few tracts per year, with a future

maximum of 10% of the State lands under lease. Land disposal should take place after careful thought and consideration and only after a comprehensive policy has been set. Agencies involved in land disposal should be adequately staffed and funded in order to carry out the disposal programs expediciously. Actual land disposal should occur on a regular basis, for example, each spring and fall, depending on the rate at which land is disposed.

Dal Piaz aknowledged that there is a strong public interest and a great sense of frustration by people who for one reason or another do not own land but would like to. Witness the homestead initiative which demands the State "give away" its land to residents "free". This type of legislation is to be avoided at all costs, and is not in the best interests of intelligent, reasoned and planned State land disposal. It would be in the State's best interest to have firm land disposal guidelines in the statutes to avoid this type of knee jerk reaction legislation. She noted the possibility of setting up a land use board to oversee the entire disposal process. Such a board could be made up of representatives from the legislature, administration, and the public.

Bob Arwezon, a realtor, differed with Virgina dal Piaz on the merits of private land ownership, feeling that it is desireable. He maintained that, "In looking at the problem, I probably have got to set out some basic guidelines that I think I, and other people, the citizens of Alaska, consider or look at. One is that the ownership, private ownership of land isn't a bad thing. Fee simple ownership is what this country's built on, and it is desirable. I know, in Vancouver, B.C., and I know in the United Nations, that this is a concept that is being attacked, but I don't think the citizens of Anchorage or citizens of Alaska feel that the right to own private property is wrong."

"The other concept that I operate from is that land is perhaps one of the only things that man does not and cannot destroy. Land is always there. We can use it, we can grow things on it, we can mine, we can alter it, we can build on it, but that piece of land is always there. It is not something that is disposable. Land always remains. I would prefer to think of it as a State land utilization policy or program, and not disposal."

Arwezon also felt that the existing land disposal statutes were inadequate. He blamed this, in part, on the Legislature which has failed to set out an explicit State land policy. This leaves too much discretion with the administrator and results in programs that lose touch with what people want. Arwezon thought that, "the government bureaucrats may not agree with the way the private sector operates, and the way the people feel, but if they don't operate and make available, in a good orderly process, the lands, then we are going to see legislation which is not going to be based on good planning concepts." As he saw it, "one of the reasons that you have -- I shouldn't say 'knee-jerk' but it might be suitable -- legislation or referendums or initiatives passed that perhaps are not

well thought out, is that people feel that State land policy is not responsive to their needs." In addition, Arwezon felt that the formulation of realistic legislative policy required private sector involvement.

According to Arwezon, utilization of land is the key to a good land disposal policy. Speculation is not necessarily bad and happens when the State disposes of land too quickly. He said that the timing of land disposal is important in order to best serve the needs of the people as well as providing appropriate financial returns to the State. Planning and land use controls should be the responsibility of local governments. In the unorganized borough, the legislature should take an active role in planning.

John Norman, an Anchorage attorney, then spoke about land as a finite resource which requires a shift in public land policy toward a realization that development is not the only goal for land use. At the same time, the human demand for fee simple land ownership must be recognized to avoid a reaction resulting in an unmanagable land situation.

Regarding current statutory guidelines, the State constitution expounds maximum utilization and settlement on a sustained yield basis, but guidelines for interpreting what this really means are inadequate. According to Norman, "This gets into very basic questions, questions of philosophy, questions of how people feel. But I think that an administrator is owed some direction here, because as evidenced right now by the actions of various administrations, there really aren't those guidelines, and the administrations sort of react the way they think they ought to." Statues do exist, but with the exception of preference rights, there is still a basic lack of policy. Policy should be broad enough to allow administrative management flexibility without sacrificing a clear policy direction. Classification by itself is not an adequate land use management tool because it is too ambiguous. "But the point I'm making is," said Norman, "if I was a new guy on the job at ADL, looking at what I was supposed to do, I'd find some specific tasks that I had laid out for me, but my end goal wouldn't be that clear in my mind, still. I would still wonder, am I to manage these things and husband them and put as many restrictions as possible on them, or is my job to get them out and let the private sector take over. And that's an area that I think needs to be addressed, it can be debated one way or the other, but I think it does need to be addressed."

Norman felt that the legislature should limit itself to gathering input and advice, and setting policy for administrative implementation. He recommended the following disposal guidelines:

1. complete a comprehensive State land inventory including navigable water bottoms;
2. manage and dispose of lands with a minimum of restrictions because the State should not be in a landlord role;

3. make lands available for maximum public use as well as maximum private ownership; and
4. strive for long range consistency of State land management and disposal policy to increase public confidence.

Ted Smith generally agreed with the points made by Norman and added that the Constitution does not define "public interest" as it relates to land disposal. He doesn't think that the Administration has too much power, but rather that there has been inadequate direction from the Legislature. The Legislature is not qualified to do planning, and they should leave that up to the administration. Smith also added that given the present leasing law, future State land leasing was not very likely.

Wes Howe, Matanuska-Susitna Borough Manager, suggested that land disposal be carried out on a per capita basis. Once a policy is set, then available land could be increased according to corresponding population increases. Currently in the Mat-Su Borough there are approximately 30,000 parcels of land in private ownership and only 5,000 households. He made the point that the number of households in the borough theoretically could increase several-fold without further subdivision.

Norman then pointed out that Federal land disposal programs were wasteful and no longer met legitimate public needs. Homesteading and the 1872 Mining Law, which encourage random rural settlement, are no longer appropriate. Land disposal programs should not be a tool of social policy and should be carried out at fair market value. As he put it, "if the land is put out to private ownership, which I think it ought to be, it ought to be done in a sensible way, making sure that there is access and so forth, and with a fair return to the State, fair market value."

Herb Lang felt that the State has been holding back land supply which has created the current speculative climate. The State should also keep a careful eye on the market to avoid dumping too much land for too low a price. Timing of land disposal is critical if it is to be done properly.

Bob Arwezon pointed out that, "... being in the real estate business, I know everybody wants two and a half to five acres, with a stream, and a moose that walks through the back yard during hunting season, and with a view of the mountains or the inlet. But they also -- they also want it with a sidewalk and streetlights, sewer and water, curbs, gutters, paving." Dale Tubbs and Smith joined Arwezon to voice the "no such thing as free land" point of view. Land disposal is expensive because it requires surveying, planning, access, and other administrative costs. The true costs of land disposal should be born by the private land owner. Smith estimated that current costs to the State for the disposal of 5-acre homesite parcels will amount to approximately $1,000 to $1,200 each, not counting roads.

Phil Holdsworth suggested that land planning in the unorganized borough be carried out by the legislature with the advise of the Department of Natural Resources. He also felt that the State should sell land with no strings attached.

David McCabe, an appraiser, advised that the State should avoid wholesale disposal by providing lands in small, discreet areas where the needs are particularly striking. Relating to Howe's earlier comments about the per capita land situation, McCabe noted that a significant portion of private land parcels in the State are patented mining claims, cannery sites, or eroding coastal areas where public development is unlikely to take place. So per capita measurements can be misleading.

Disposal Methods and Techniques

Herb Lang, from Anchorage Sand and Gravel, began his discussion of land disposal methods by stating that the demand for fee simple land was strong. If this demand is not provided for, there can be serious political backlash. Lang stated, "So whatever idea there may develop on the disposal of land, it has to take into consideration what the people really want. We cannot always play "good for you" type of commander. The troops don't allow it. We have this homestead referendum, which anybody working the land would find really not a very good idea, very inefficient, and a very expensive disposal of resources. But I think it comes about because of the State land policies employed in the last two years." The current lease law came about in this fashion too, because lessees in Alaska were frustrated. People who want to build homes desire and need fee simple ownership in order to get financing. Leasing for residential use is not always appropriate. Business property leases are better.

Leasing programs, especially difficult ones, will not survive and the public will demand a reversal of leasing policy if it is not responsive. Unlike the present leasing law, leasing should be carried out carefully and in a sophisticated manner or it should not be attempted. The State should acknowledge that leasing agricultural rights amounts to a social policy. Farmers are generally more interested in fee simple ownership. So in order to make an agricultural rights leasing program work, the State is going to have to give up a certain amount of income by offering these lands at less than their usual value. Lang also noted that any State land disposal should be accompanied by road development.

Ted Smith, Director of the Division of Land and Water, began his presentation by stating that mechanisms already exist for most land disposal needs. Having just heard from 600 people at a series of eight hearings on land disposal regulations, he could see that the public was eagerly awaiting the availablity of State land. From these hearings, he perceives five types of demand for land.

1. Commercial/industrial: which could be provided by trust land leases.
2. Residential: which could be provided by public auction or by the homesite program (although there is a general shortage of land suitable for this purpose). Leasing is inappropriate here.
3. Agricultural: which could best be provided by fee simple ownership and zoning, but this is not currently politically feasible. Leasing of agricultural rights will probably be the most common method of supply.
4. Recreational second homes: This demand is somewhat nebulous but strong. Could be met by the open-to-entry and homesite programs. There are State lands that are appropriate for this use. Leasing is not appropriate.
5. "Remote" or "Lifesyle" residences: the present land disposal techniques do not meet this demand, with the exception of a few open-to-entry sites. Generally, however, open-to-entry sites are too clustered. This demand might be met by some sort of use permit system.

Smith felt that, "-- one of the goals that I think we need to keep in mind in building these disposal programs, is that we need to minimize the State's downstream involvement in administering these lands. There's very little that I can do sitting behind a desk that a farmer in the field, for instance, can't do better. And I think there must be some kind of a law, if there isn't, I think I'll invent it, that says that the farther from the site where a decision is applied that that decision is made, the worse the decision is likely to be." On the other hand, there is a legitimate need for a certain amount of ongoing management, for example, zoning in the unorganized borough. At the homesite hearings Smith expressed amazement that bush residents didn't seem to be offended by State zoning.

Wes Howe from the Matanuska-Sustina Borough then talked about the merits of clustered vs. scattered settlement patterns. As Howe sees it, "So as far as the public interest is concerned, I think we've got to look at the public interest of -- not necessarily minimizing, but at least keeping to some sensible level the cost of government with respect to providing a widely scattered population." He noted that providing services to rural populations is expensive. High transportation costs in Mat-Su Borough for school children on Oil Well Road and from Skwentna has spawned experiments to try out alternative transportation means. Another costly service, fire protection, must generally be available within five miles of a dwelling in order to receive fire insurance. It is in the public interest to keep government costs down, which can best be achieved by limiting scattered settlement. Land disposal policies that are designed to meet a "psychic demand" alone are expensive. Howe felt that two-thirds of Alaskans don't really even care about public land policy.

Don Karabelnikoff, a real estate consultant, spoke next about supply and demand of State land. He stated that land should be disposed of when needed for community expansion and when such disposal would not hurt other State interests. The demand for land is closely related to economic activity. The State should carry out a sophisticated analysis of land economics in the local market in order to avoid flooding the market or causing an unnecessary scarcity of usable land.

Leasing is an appropriate method of land disposal for commercial/industrial and agricultural uses, although it requires careful management. In the course of leasing State lands which will be the site of substantial improvements, consideration must be given to the requirements of the lending institutions if the State basing program is to be successful. Lands for residential purposes should be sold in fee simple through auction, negotiated sale, or over-the-counter sale with all sales at market value unless overiding State interests dictate otherwise.

The State should avoid getting into intensive real estate development as this is best done by private developers. According to Karabelnikof, "... where there's demand for smaller parcels, that is, residential homesites, or for smaller lots, something around an acre, a half acre or two or three acres, I suggest that very large parcels be made available to people who are involved in the development business, in other words, if you're talking about residential neighborhoods, sell 160 acres." Large parcels could be sold to developers who would submit a development plan and then contract the development on a bid basis. This method of land disposal would permit greater efficiency and would combine the best of State and private abilities. "Because real estate developers are manufactures in the true sense of the word. They take a raw product, piece of land, and they put a lot of capital into it, and they hire a lot of people to do things, like build roads, and make whatever other improvements are necessary, and lot of engineering consultants and planners, and they come up with a product that people apparently want. The government, either local or State, to me is far less efficient, and I don't think that the State ought to put itself in the role of being a real estate developer when it comes to projects. I think the State has -- has got enough problems of its own without trying to become a subdivider." Rural residential land demand could be met by leasing or life-estate permits.

Karabelnikoff defined the speculator as someone who holds land as inventory until it is developed. If land will not be immediately used, because of site conditions or lack of demand for the property, it will remain vacant until it is needed in the community development process. In this case, only a speculator would have an interest in owning the land. He noted that the State is the largest speculator. "The role of the speculator, as I understand it, is that he provides liquidity for owners who no longer want to own their property, and nobody else can do anything with it right now." Speculation is a logical function of the market place when supply exceeds demand. In summary, State lands should

be conveyed to the private sector only when there is a demonstrated need to use the land for some purpose. Preferably, these disposals should be at market value unless other benefits accrue to the State.

Ted Smith then commented that the State is not quite like a business because it is publically accountable for its actions. This drives up costs which makes the above mentioned development plan idea look good. On the other hand, Dale Tubbs expressed the notion that develpment plans would place too many restrictions on the honest bidder and could actually stifle development. He was concerned that the program could become a meaningless blue print show-and-tell. He felt that the currently required agricultural development plans were overly restrictive and inflexible. Wes Howe followed by expressing his dissatisfaction with the downstream problems with development plans, citing inflexibility and difficult administrative follow-through. Walt Parker attributed part of this problem to inadequate financing of administrative efforts which might be changed by the State in the future.

Toward the end of the discussion about land disposal methods, Lang mentioned that fee simple land auctions allowed people to choose what they wanted. Norman agreed with this and went on to say that whenever the State imposes restrictions on land, there will always be those who will scheme to get around them. He added, "there are as many wants and desires as there are people. And there's no way the State is ever going to please all the people, and if you try, you'll wind up with kind of a mess with nobody really happy. So I think the goal is to achieve a balance, set aside enough in the public sector, those lands that really should be protected, and for the remainder, get it out and don't be afraid to get it out in fairly large chunks." Armezon liked the idea of granting permits for those who wanted to live in the remote wilderness (Smith's "fifth" demand) because it allowed people to live there for a finite time period without conveying any land or rights, thus reducing administrative requirements.

Leasing

The first topic discussed after the lunch break was State leasing policy. The panelists were Earl Miller, Vice-President of Alaska Mutual Savings; David McCabe, Appraiser and General Partner of Alaska Mortgage Group; Andrew Hoge, Attorney for numerous lending institutions and developers; and Hugh Gellert, President of Bear-Fritz, Inc., a land development firm. Generally, the panelists agreed that leasing was one useful disposal method for the management of State lands. Past problems with the leasing program stem largely from inappropriate use of this management tool. Administrative inflexibility and inefficiency have contributed to the problems as well. But these technical difficulties can be remedied, and the need for State land managers to be able to utilize leasing as a management technique was advocated by all of the panelists.

Earl Miller believes that leasing can be a useful tool in any land disposal situation as long as it is administered in an effective manner. Good administration, timely, flexible, and tailored to the situation and character of the leasehold is essential to an effective program. A special burden is placed on public land managers because their leasing negotiations must be carried out in the public eye. This arrangement does not always lend itself to good business management. But the fish bowl of public scrutiny is a fact of life in State land policy, so an effective program demands personnel of high caliber operating under guidelines that spell out the management philosophy and policy of the State in a clear and concise fashion. Miller sees the lack of policy guidelines as one key shortcoming in past State leasing practice. A second problem area he identified is the limited quantity and quality of State lease management personnel.

Miller agreed that financing has been difficult on some State leaseholds in the past. One reason for this difficulty was the fact that State land management personnel were unfamiliar with the requirements of lending institutions. A second problem, which has been generally remedied now, was the need for clarification of the right of assignment. The right to assign a lease to a lender is a fundamental requirement of most lending institutions. The final point made by Miller regarding the financing aspects of State lease management was repeated throughout the day. If the State wants to run an effective leasing program it must adopt stable consistent operating procedures. Uncertainty is unacceptable. Said Miller, "-- my feelings are that the biggest thing from a financing standpoint is trusting the State in their actions. What's going to follow after that lease is signed, are they going to come back in a couple years and say 'whoops, we made a mistake, and we're going to renege and back up and cause problems'. We've lost a lot of trust in what the State's actions will be after the lease is signed." Lenders demand to know what to expect from the State and continual change in statute, regulation, or administration does not inspire trust.

In conclusion, Miller briefly analyzed the statutory changes in the leasing law that were made by the 1977 legislature. He felt that the perspective develcped by Alaska Advocate reporter Bill Lazarus in the November 2, 1977 edition of that paper was a fairly accurate one. The absence of an escalator clause for the first two and one-half decades of the lease term coupled with a 50 percent adjustment limit after this period limits the ability of the State to keep pace with the rising of cost of living. Such a program will have a devastating effect on trust land management. Miller did not think that the trust board officers could possibly operate under the provisions of the new statute and still maintain their statutory fiduciary responsibility. Miller also thought the concept of rental adjustment limits was a good one because it allowed lenders to determine with some certainty what to expect over the long run. But the length of the reappraisal period and the extent of the adjustment limitations in the recently adopted statute are essentially a giveaway of State resources.

Anchorage appraiser David McCabe was the second panelist to speak. He focused on the locations and situations when leasing can be an effective method of land management policy. A prime reason for the State to lease a particular parcel of ground results from the need for the State to maintain physical control of the parcel. For instance, land situated in areas with unique geographic values fits this category. Parcels with access to deep water, transportation corridors, or other location values fit here too. Another possibility might be certain soil types potentially valuable for agriculture, over which the State would want to exercise use control beyond that possible through sale covenants or local land use controls. The important factor here is that land ownership is probably the single most effective means of land use management. In cases where the State recognizes unique values that require public retention to insure productive use, but wishes to encourage use and development for specific purposes the lease is an appropriate land management tool.

A second situation where the lease can prove effective occurs where the intended use will be temporary. McCabe offered the example of Livengood. Once a viable gold rush and mining community, this town virtually vanished as interior mining activity dwindled in the early 20th century. After a sleep of some 30 years, Livengood boomed again as a key intersection on the North Slope haul road. The Lost River bornite development is another situation where the term of activity is likely to be fixed on the longevity of the mining operation. For situations of this nature and other similar uses where the tenure will be limited or temporary, the lease is a very effective land mangement tool.

A third type of situation which McCabe thought would fit well into a leasing mode were those locations where land values are high and the properties are complex. This possibility arises repeatedly with regards to the trust lands, whether they be selected for school, university, or mental health purposes. The trust lands were selected in many cases because of their good location and high or potential value. The leasing of these lands could be a real money-maker for the State, particularly for the trust programs. In an active market, the lease manager finds it a good deal easier to keep abreast of value appreciation. In addition, complex properties with prime location are attractive to lessees.

McCabe proposed an interesting approach to property taxation as the fourth appropriate use of the leasing tool. He argued that in the unorganized borough the lease rental could serve in lieu of property taxes. The revenues could pay for occasional services as needed. This would save the State from the immense burden of assessing all of the properties in an unorganized borough which would result from a disposal program of fee estates. McCabe thought, "as a real estate appraiser, that just curdles my blood, to think of the State trying to get into that." Another value of leasing was that it provided an opportunity for a lessee who was short on capital to get established. Whether the use was industrial or agricultural, it was demonstrated how in the first 15

or 20 years of a lease term development is encouraged by offering a virtual loan of the property's value, then charging annual rental considerably lower than payments for land purchased for the same term. By giving a lessee an advantage on the front end, the State could use leasing to promote economic growth.

Past problems with the leasing program stem mainly from uneven and sometimes inequitable management. The crux of the problem has been the absence of timely reappraisal and adjustment of annual rentals. As this task was brought up to date in 1976 and current market values calculated, the resulting rental adjustments were astronomical. Many lessees had made development decisions based on land values near $.25 per foot, and their development choices were no longer economically feasible when values were more accurately established at $4. The lessees found themselves locked into subleases which were based on inappropriate land values. The lessees also found the administration inflexible and insensitive to their problems. Trust in State land managers was scuttled and the lessees saw no recourse but a legislative reprieve.

The new statute relieves problems for many current lessees by granting them a windfall profit for their political efforts. Unfortunately, it might also eliminate the future use of the leasing tool. Certainly, the revenue raising goals of the trust boards will be frustrated by the statute. In addition, McCabe demonstrated how the purchasing power of a dollar earned from a State lease would dwindle to $.21 after 25 years and $.17 after 35 years at minimum inflation rates if the rental adjustment limits in the current statute were maintained. A more reasonable limit would be 100 percent on a 5-year reappraisal basis, in McCabe's eyes. This approach would offer the certainty required by the lenders, but would enable the State to capture some share of the value appreciation. As it stands, the current statute makes the State able to compete unfairly with the private sector in the land management business and provides a subsidy to a special class of Alaskans at the same time. Private landowners, particularly Native corporations who expect to derive considerable income from land rents, cannot compete with the uneconomic terms offered by the State.

McCabe also criticized the use of the complicated reappraisal system. He felt that merely the cost of two MIA appraisals would discourage many reappraisal efforts. He stated, "It's a provision that makes sense if you're dealing with properties that are worth $100,000 or more. Because the nut is big enough to stand the expense of the valuation. If you are talking about a half-acre that some guy wants to lease to put a diesel plant on, or a State lot at Aniak, where the value of the land is three or four hundred dollars, it is totally unworkable. It's going to make it that much more difficult to do business in many, many parts of the State." This alone would frustrate attempts to keep the program current. McCabe concluded with the observation that, "... for the State to get into a leasing business, which is so far removed from typical market terms, in many places is going to ruin the market for Native corporations

to lease their lands, and for private owners to develop and lease land that they may own. And, you know, I am of the opinion that the -- the lease of surface rights is, for many of the -- many of the Native corporations, the best chance that they are going to have to survive as viable entities. I think this is a very, very serious problem for them."

Andrew Hoge was the next panelist to enter the fray. As an attorney for various lending institutions, Hoge provided a valuable perspective on the leasing program from the point of view of both the financial institution and the developer. He esd familiar with numerous leaseholders who had found past difficulty with the State leasing program, and actively monitored attempts to enhance the program's effectiveness by legislative action. Hoge believed that leasing was an appropriate tool whenever the use of the property planned by the lessee was known or could be determined. Thus, land along an airport, well suited for air related commercial and industrial development, should be leased for those purposes. Recreation parcels, on a particular lake, stream, or viewpoint, also lend themselves well to leasing. Even residential land can be leased. Leasing is less effective, however, when the use cannot be identified. Leasing land in large tracts for purposes well served by small tracts is an example of inappropriate use of leasing techniques which causes problems down the road. Understanding the importance of timing is also key to the appropriate use of the leasing tool. When land for use is scarce, people are willing to lease land. When land gluts the market, leases will be less attractive. The good manager must read the market and utilize his management techniques at the proper time.

According to Hoge, "I suspect a couple of things were wrong with the State's prior leasing program, and this -- this is not a charge against the present administration, it really is a historical problem." When the State first began to lease lands, the parcels were small and value of improvements placed on them was not too significant. However, as loan amounts began to rise and the extent of development broadened, lender scrutiny increased as well. Lenders usually consult a checklist of 15 or 20 items before they will loan funds for some undertaking. As financing requirements increase, the lenders turn to ADL to establish the certainty of the situation they are evaluating. In the past, lenders have found a lack of qualified people at ADL who understood their business and also an absence of the administrative flexibility needed to adapt to changing conditions.

Hoge argued that there are legitimate commercial requirements and it takes experienced administrators to be responsive to these demands. As Hoge put it, "I use the words 'certainty and stability'. There is absolutely no reason for a lender to -- to rely on the State of Alaska. I mean, if every deal can be challenged, why make the loan. And if you're going to make the loan, you're going to cut it down one way or the other. You're going to cut down the amount of money you're going to

lend, or you're going to increase the interest rate." In order to operate, lenders must be able to trust the State. In the past, this has not always been that easy to do. The State has been responsive in some cases, for instance, the basic changes that permitted assignments have certainly made financing easier. Hoge pointed out that escalator clauses were common in some private sector leasing. But, usually lenders require that the ascertainable rental provisions be fixed at least 10 years (or a decade) in addition to the term of their loan. In the case of savings and loan institutions, this is required by law and generally, my experience with lending institutions in Alaska, require it as a matter of practice. In a few instances with insurance companies, these provisions requiring ascertainable rental may be somewhat less, in the range of 7 or 8 years on a 25 or 30 year term loan. "The purpose of this provision is," I think, "a reasonable one; in other words, if a borrower was in financial trouble, the additional period gives the lender an opportunity to work out the loan and stretch out the amortization so as to reduce the principal and interest payment."

Hoge offered the absence of limits and administrative inflexibility as the two main reasons that lessees wanted to see that the statute was amended. Realistic application of the regulations is mandatory for successful administration. In order to be effective, valuations must be current and should reflect what is happening in the market. But when the State fell behind and then caught up in a hurry, it put many lessees at a disadvantage. Hoge was the only panelist that believed the new lease law was really workable. He recognized that current leasholders would enjoy a windfall when they converted to the new leasing system. But, he believed that the economic advantage granted to lessees of State land would be reflected in increased bid prices at State land auctions in the future. Hoge felt that a well run bidding procedure would capture this added incentive to lease State lands.

Hugh Gellert, President of Bear-Fritz, Inc., was the final panelist to take the floor. Many points had been covered by this time, and he acknowledged that he could support the majority of the comments offered by his colleagues. He approached the new leasing statute as a case study of why the State has had, and will probably continue to have, problems in the leasing business. The willingness of the legislature to change the statute in response to hot, but essentially limited pressure encourages anyone with an administrative problem to go directly to the legislature. This approach was encouraged by the current administration who refused to flex in response to demonstrated hardship and pointed the complaining lessees towards Juneau. The few who were injured went, and the resulting changes will reward them and essentially punish the public interest. As an example of stability, the way the issue was resolved is unfortunate. By way of encouragement to special interest pressure, the example could only lead to further activity along these same lines.

Gellert made a special point of the fact that land leasing and associated contract administration is a very sophisticated enterprise. "I think

under the previous State system, the lessee probably never really understood the implications of what was written on the paper. Possibly because it was written in such small obscure language that very few people did understand it. It says, for the State's defense, if you read it a few times, that yes, the State can really grab you anywhere along the line. And many of these people who were the original lessees testified, you know, they never knew that's what it said. And they struck me as honest people. They probably never did know what it said. For years and years the State let these appraisals lapse, underappraised, and things were fine. And then all of a sudden here comes the -- somewhere close to the market appraisal and everbody falls down in a dead faint." For that matter, real property appraisal requires highly skilled and motivated people as well. For leasing to be effective and appropriate, it takes a degree of sophistication on both sides. In the instant situation, neither side was particularly well prepared. Gellert served on the Governor's ad hoc land management practices committee. In testimony before the ad hoc board, lessee after lessee testified that they did not know what their leases said. Although they received a copy of the document they hadn't read it because they believed they could trust the State. Gellert was surprised by this testimony. But he was equally surprised by the inexperienced appraisers, tardy valuations, and generally inefficient administration of the leasing program which became apparent through the Ad Hoc Committee's investigation.

Gellert felt that the sophistication necessary for successful leasing was noticeably absent from both lessor and lessee. If the State wanted to actively lease lands, they should certainly upgrade the quality of their appraisal and contract administration programs. He also thought that the windfall gained by current lessees would not be diminished by the open bidding procedure for future lessees of State land. Gellert disagreed with Hoge's observation that a well run auction would produce bids which reflected the advantages of leasing State land under present law. The way the State has administered their land programs in the past prompted Gellert to foresee continuing problems. The necessary expertise and command of the market situation was just not available at ADL.

In the ensuing discussion, Ted Smith, Director of the State's Division of Land and Water, took issue with the oft stated observation that you could not trust the State of Alaska. He argued that trust and stability is a two-way street, and the lessee had certain obligations to keep the program operating as well. Another item that came up during the comment period was an exchange between Senator Croft and McCabe. McCabe offered an example of two tracts, side by side, each worth $10,000, with one leased and one sold. Assuming a land value increase of 10 percent per year, an effective tax rate of 52 percent, with the land sale on a 10 percent down and 8 percent interest basis and a 20 mill property tax, the land buyer would pay $27,470 over the first 9 years. The leaseholder, on the other hand, would have paid $8,882 over the same 9 years.

McCabe was demonstrating the front-end advantages to the lessee over the purchaser in the first decade. Senator Croft wanted to know at what point the two sets of figures were equal. The model had not been developed to this point. But the point where leasing becomes equal to purchase for the developer is a good ways down the road. A number of factors including opportunity cost, asset value, and other tax assumptions would be required to make the model wholly workable.

Land and Water Director Smith said that under the current statutes the State administration did not expect to apply the leasing tool to any State lands. He also stated that he understood that the trust boards were quite uncomfortable with the new policy as well. Very recently, the Board of Education, charged with trust responsibility for the common school lands, filed a suit testing the new statute. Virginia dal Piaz pointed out that the discussion had been very technical and the real truth and beauty inherent in retention of public lands and leasing for use purposes had not received enough attention. John Norman thought it would be useful to calculate the costs of not having enough land in fee simple ownership. He felt sale was more appropriate than leasing and built stronger communities as well. David McCabe spoke, agreeing with dal Piaz but acknowledging the fact that if leasing was going to be a good tool in the land managers kit it required a well honed, sophisticated approach. It was time to recognize that leasing wasn't universally appropriate and that a good program demands competent administration. Ted Smith concluded the section with the observation that, "I think that we do have a problem in the leasing program, in that we only have one program. Whatever we have on the books, that's the only method that's available. With trust lands in particular. I think we need a wider array of tools. Some of the tools that the private market uses, like leasing for a percentage of the gross, and other techniques should be available to the State."

Trusts

The second topic of the afternoon session was the trust lands and how they are managed. The basic questions around which the discussion was framed was:

1. How have the trust lands influenced land planning and management?
2. What advantages and disadvantages have prior management of trust lands had for the State as a whole and for the trusts?
3. Are there changes in legislation, regulations, or management of trust lands that you would advise?

The trust land panelists were Steve Reeve, newly appointed Chief of Classifications for ADL who formerly served as the Planning Director of the Ketchikan Borough; FSLUP Commissioner Phil Holdsworth, past Commissioner of the State's Natural Resources Department; and Dale P. Tubbs, former Deputy Director of ADL now a private land management consultant for Moening-Gray and Associates.

Steve Reeve led off and presented particularly valuable insights based on his experience working in SE Alaska. Many trust lands were selected during territorial days and high value lands were chosen when possible. A number of communities in SE are heavily impacted by trust land holdings. Producing revenue is the operating goal of the trust land managers and their land utilization practices are not always consonant with local growth plans. Reeve used the Juneau trust land map developed by FSLUPC staff to demonstrate how the trust lands occupied virtually all of the useable land within the City. In Ketchikan the problem is even worse as the U.S. Forest Service has not permitted residential development in the surrounding Forest to the extent allowed in Juneau. For Ketchikan the experience has been that only intense local pressure results in disposal for use purposes near the City.

The location of the trust lands has also had a deleterious effect on certain land development patterns in SE. Besides escalating the value of land by withholding so much of it from the market, the nondevelopment of the trust lands has forced community growth to leap frog the underutilized trust property. Local input into the sale and management of trust lands has been negligible. The absence of a community voice in trust land management decisions is particularly galling to Reeve who says, "-- it is crucial that communities that are surrounded by these lands have a significant role in identifying which lands are to be disposed of, are to be sold, and which lands are to be retained and when that's going to occur." If the lands were general selection State lands, they could be conveyed to the municipality and the local government would be able to utilize the property in accordance with the Borough's comprehensive development plan. Unfortunately, this possibility seems remote as the Borough cannot afford to satisfy the revenue requirements of the trust setup as it is currently aligned.

The overall effect of these land holdings has not been entirely negative. For one thing the absence of available land has forced many towns to develop a compact land use pattern. Since the fringe lands are unavailable for development the opportunity for sprawl is substantially reduced. In addition, public ownership of the lands has tended to inhibit growth in many SE communities. This has some benefits as well. Reeve would like to see active local control of trust lands, particularly where they inhibit community development. But he recognizes that the statutory obligations of the trust boards must be dealt with by statute or regulatory adjustments before new management arrangements are really practicable. In addition, Reeve questioned the idea presented throughout the day that land use control should be a local affair when he pointed out that, "-- that isn't possible without some kind of assistance from the State. I think that's an issue that the State has not dealt with adequately. In terms of general planning programs throughout all of the smaller communities, I would say everwhere except Anchorage, land use planning programs are poor, and they are understaffed. They are expected to do certain things, like, for example, put together a meaningful nomination to the State for selections from national forest, or develop coastal

management programs, or other matters of State interest as well as local interest. But they simply do not have the ability to do that. And I think that any time you expect them to do certain things, I think you should help them out. And whatever form that takes, whether it's financial assistance, manpower, a stronger and more active Department of Community and Regional Affairs, or whatever it may be, you cannot shift responsibility for land use control to local government in any meaningful fashion until you have taken measures to improve their ability to do the job."

The second speaker was FSLUPC Commissioner Phil Holdsworth who outlined the history of the trust lands and the manner and authority by which they were selected. An outline of his historical summary is attached to these proceedings.

Commissioner Holdsworth outlined the legislation that created the first trust lands. School and university grants date back to 1915 but, because they depended on survey, the State did not receive considerable acreage. Yet, the acreage they did receive was usually good because the survey process was most likely to be initiated in and around developed areas. Federal legislation was specific about the restrictions on the management of these lands. School and university land managers were restricted to leasing, and only the income earned was available for the school programs. At the time of Statehood, these land grants were confirmed by the Federal government and transferred to the State for management in accordance with the purposes for which they were originally reserved.

In 1956, the Territory was encouraged to select not more than 1,000,000 acres to provide an economic base for the mental health program. The management restrictions for these lands were not as strict as those outlined for school and university lands. However, the Territory was to administer them as a "public trust", and the mental health programs were to be primary recipients of the income. The Statehood Act confirmed this grant as well. With mental health land selections there was no requirement that the land be surveyed. Therefore, considerable selection flexibility was allowed and many parcels with high value were selected.

State statutes have delegated management authority for these lands to the Division of Lands, Department of Natural Resources. ADL conducts this management program subject to the approval of the Board of Regents (university lands), Board of Education (school lands) and Mental Health Land Trust Board.

After sketching the legislative foundation of the trust lands, Holdsworth raised a number of issues that currently cause concern for trust land managers. Many board members are dissatisfied with ADL management services. ADL, who is not compensated for managing the trust lands, seeks a more equitable arrangement in exchange for their efforts. In addition, the legislature has made the trust lands subject to many Alaska statutes that conflict with the revenue producing goals of the

trust land legislation. Under these conditions, there seems to be agreement that changes must be made in the manner by which State trust lands are managed.

Commissioner Holdsworth discussed this matter with a number of administration personnel. While he found a consensus that management practices should be evaluated and enhanced, there were a variety of opinions as to exactly what changes would be the most productive. One approach suggested that the trust boards should get a fixed percentage of total State land revenues. Mangement decisions on trust lands would be made on the same basis as the decisions made for other State lands. Another way of looking at this situation called for trust land management to be separated from ADL and authority delegated to private managers who could be more responsive to the Trust Board's revenue goals. Other options between these two poles were presented as well. But the agreement that change is needed underlines the importance of carefully considering the range of choices available.

Commissioner Holdsworth outlined present trust land disposal practices and pointed out that accounting procedures were such that revenues were not directed to the funds who owned the lands earning the revenues. He also alerted the panel to certain State statutes that may be in conflict with federally imposed trust responsibilities. Examples of conflict arise in both the permanent fund legislation and the newly enacted leasing statute. Finally, Mr. Holdsworth explained how most of the trust lands were selected well before the general selections permitted by the Statehood Act. For this reason many Mental Health land parcels are centrally located. Land management problems can cause community problems because of the strategic location.

Mr. Dale Tubbs was the final trust land panelist. He spoke from prepared remarks and they are attached to this paper. It should be mentioned that Tubbs recently completed an exhaustive Study of the trust land situation for the University of Alaska Board of Regents. His recommendations take on a certain added dimension as they were adopted by the regents at their recent Kenai meeting and now represent management policy for the university lands. Tubb's written comments also have application for the remaining trust lands.

Early on, Tubbs made the distinction that trust lands should not be considered part of the State public domain lands. Too often in the past, management decisions have not always treated the trust lands as though they were private lands to be managed for a distinct purpose. Part of the blame for this management policy must fall on the trust boards which have not spelled out management guidelines for the ADL. But the managers themselves are to blame as well. It has been more expeditious in many situations to treat the trust lands as though they were part of the State's general land endowment. However, until they are managed like corporate private lands, their value as an endowment is going to be diminished by policy and legislation which ignore the trust distinction.

Trust land management has been spotty. The mental health lands have received the most attention because of their location and the fact that no mental health trust land board was available to evaluate ADL practices. University and school lands have suffered in the market place as well. As Tubbs put it, "In management, the trust land boards must require more aggressive management from the Division of Lands if the Division of Lands is going to continue as the manager. The trust boards must require the Division of Lands to show funds being requested in their budget and earmark them for management of that particular fund, and keep it identifiable in the final outcome of the budget. Too often what happens is the Division of Lands has said, 'Okay, university and school, we're watching out, we're budgeting monies'. And then the budget gets first cut by the Commissioner, then it gets cut by the Governor, then it gets cut by the Legislature, and what's left goes back, the program is revised, priorities are rearranged, and your trust land management funds are lost." Few funds have been available to ADL to survey, build roads, and, in other ways, satisfy local subdivision requirements. Tracts of inappropriate size have been forced on the market to avoid these requirements. This has not benefited the trust concept either. Of course, there are examples of success in trust land development. Alaska Industrial Subdivision is one example. Residential subdivisions like Windemere have been well developed as well.

Dale Tubbs saw a need for changes in the legislation that effects trust lands. Primarily, his emphasis was aimed at guaranteeing that trust lands were not treated as State public domain but were recognized as lands separate from general land legislation. He also called on the legislature to observe their trust responsibilities when these lands were placed into the State's amenity land system such as parks and refuges. Tubbs also called for the adoption of legislation that would improve the capabilities of the trust land managers.

Regulations for trust land management do not reflect Trust Board policy. This is primarily true because the trust boards have failed to articulate management objectives in the past. However, the regents have taken a new look at this situation and are now working on developing such a management program for their lands. But the blame cannot all be place on the boards. If ADL designs trust land management regulations, they should reflect trust board contributions. A need to broaden the communication between the managers and the boards is evident.

Tubbs also offered a series of suggestions for improving the management and administration of State trust lands. Basically the thrust of his comments outlined the conflicts inherent in being the manager of both public and trust lands. As Tubbs sees it, "the Division of Lands has a conflict of interest in managing the three trust funds when like lands occur in the same area. How can the Division get the most for any one when each are competing for the same market. And this has shown up repeatedly. You try to get the School Board to lay down and play dead while the university can do something, or the other way around." In

addition, day to day management suggetions such as making lease terms more specific to the parcel being leased were mentioned. State policy on log exports may make social sense but when applied to trust land timber, the effect is to limit revenue. Sand and gravel disposal is another revenue producing opportunity that is essentially foregone on most trust lands. All in all, if the goal is revenue, then adminstration of trust and public lands in the State must be on different terms administratively.

Tubbs also made the telling point that since local governments control zoning assignments they also have authority over the VALUE of trust lands. For instance a vast majority of the Mental Health Lands in Anchorage are zoned PLI. Mr. John Norman argued that this was an excellent opportunity for some basic policy decisions. He suggested that trust lands should be exchanged for Slope reservoir lands or other lands with a known current value. The the trust boards can just clip coupons while the State can have a more flexible management program. Commissioner Hurley wondered wondered how three separate district boards with little land management experience could be effective managing the trust lands. He opted for a more unified approach to trust land management.

Budget

The meeting closed with a brief discussion of the costs of land management and State land disposal programs. Ted Smith stated that for ADL, "at the moment, our annual budget's about five million dollars. So that gives you a ballpark figure." He went on to describe in detail the costs that had resulted from the homesite program in the first year. Speaking of preimplementation estimates he said, "... like any estimate, we found holes in it when we actually started to do it. First of all, you note that it makes some assumptions on economies of scale. We talk about 100 units, and 1,000 units, and like, 300 homesites, 3,000 homesites. And the way the bill was actually implemented, you don't get those economies of scale, because you can't find sufficient blocks of land that meet all those requirements that you can get the surveying savings and platting savings and all like that. So far, I've just checked, and we've spent $103,000 -- on contract costs for the surveying of these 183 sites so far. And that amounts to about $562 per parcel. And unfortunately, it does not include platting, administration expenses, and soil tests which will bring costs to $1,000 per parcel or more." Smith seemed sensitive to the land management budget questions and explained that his staff is evaluating the prospect of using contract appraisers. This possibility could become operational if the price is right. David Simpson, Matanuska-Susitna Planner, echoed Wes Howe and talked about the costs of providing services to scattered residential dwellers. This theme was picked up and followed by many of the panelists.

Commissioner Gorsuch summed up the day well when he said that it all seemed pretty simple until he heard the facts. He found that the panelists had contributed extensively to his understanding of certain issues. He

thought there was a need to clarify basic State land disposal policy and to create a process that would encourage certainty, stability, and trust in the system. Statute should state policy and the legislature could be more effective if it were less involved in stating day to day management operating procedure and put more emphasis on stating basic policy guidelines for future State land disposal. Commissioners Hurley and Holdsworth also described the value of the discussion and extended appreciation to the contributors.

Walt Parker, State Co-Chairman, captured the mood of the day in his closing comments, "I wish to thank you all for coming today, it was certainly one of the more provacative sessions we've had in the five years of the Commission's existence. I would echo my colleague, Mr. Hurley, that the great question of whether it is better to retain control of the public lands through leasing, or to dispose of them through private ownership is solvable within our State system. In a state with 103 million acres both interests should be able to be accommodated with some equity on each side. And that doesn't mean in the sense of compromise with anybody's basic philosophy. I think it's just a simple recognition that possibly some lands are better handled through conveyance as rapidly as possible into the private system, and some lands are better handled through retaining a substantial hold on the public equity in those lands."

"Some of the things that came through to me today were the need to simplify our declaration of State land policy. Policy making should not try to get too subtle in trying to control the public wealth through statutes. I think the review of past land legislation, where that attempt has been done, reveals to all of us the problems we get into there, trying to overcontrol the public. We need to have a trust in the certainty and stability of the system, certainly an important point that was brought up here today. I think this idea extends to many areas in our beleaguered State. Until we get certain major land issues behind us and do get the system settled down a little bit, we're all going to live with uncertainty that creates what appear to be policy dichotomies that really may not be."

Land Availability

L A N D

A V A I L A B I L I T Y

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Land Availability

Introduction

There are approximately 365 million acres of land in Alaska. The Statehood Act gave Alaska 25 years to complete the selection of its full entitlement of more than 103 million acres of this land. The status of this selection process is approximately as follows:

Land Selection Status
January 1, 1978

Grant Type	Entitlement Acreage	Selected Acreage*
General	102,550,000	71,162,999.22
Community	400,000	83,792.44
Community National Forest	400,000	47,292.27
Mental Health Trust	1,000,000	1,017,215.59
University Trust	100,000	99,414.48
School Trust	---	109,073.43

*Selected Acreage also includes lands tentatively approved and patented.

Recent State land selection activity has identified considerable additional acreage for selection under the general grant and National Forest community grant authority. These selections will probably be completed in 1978. The State now has management authority, resulting from tentative approval or patent of its selections, for more than 36 million acres of land.

More than 1 million acres were in private ownership prior to the Alaska Native Claims Settlement Act (ANSCA). In addition, ANCSA will convey about 44 million more acres into private ownership by Native Corporations. Altogether, after ANCSA is implemented, there will be more than 45 million acres in private hands. With Alaska's small population, this results in a per capita private land ownership in the State of 112 acres. The nation wide average stands at 7.5 acres.

Less than 150,000 acres of Alaska's private land is intensively used for residential, industrial, commercial, agricultural, or recreational purposes. The Soil Conservation Service reports that only 7 million acres of the lands selected by the State are "good" for intensive use. Even in those railbelt boroughs where economic activity is high, the intensity of land use is not. The Matinuska-Susitna Borough reports an 85 percent private land parcel vacancy rate. Unimproved parcels on the Kenai Peninsula make up 76 percent of the available private land. In Anchorage, the land parcel vacancy rate is almost 50 percent.

Private land is available in significant quantities in the railbelt region. Land is less abundant in southeastern communities, but the upcoming National Forest selections could relieve the scarcity. In western Alaska, some communities have witnessed the price of land raising rapidly due to a scarcity of parcels in private ownership. Implementation of ANCSA could relieve this problem.

Other than trust lands, the State does not own considerable acreage that is in a location suitable for residential use. Most of the State-owned lands are beyond reasonable commuting distance. But State lands are suited for other uses, such as agriculture, rural-remote living experiences, recreation, small scale timber operations, and other uses less dependent on easy daily access. Also, the State has an opportunity to make better use of its trust lands, which are, for the most part, well located. More intensive use of the trust lands could satisfy land scarcity problems in some areas, and, at the same time, produce needed revenues for State operations.

Land ownership near population centers, primary access routes, and waterfronts will be influenced by the resolution of the borough and municipal land selection issue. The State's largest boroughs have already filed extensive selections. The North Slope Borough is in court attempting to establish the extent of their selection rights. The community lands situation will also be affected by the 1,280-acre ANCSA 14(c)3 lands which will be conveyed to municipalities for public use by the village corporations that receive their entitlements. In southeast, the municipalities are looking to the State selections from National Forests to solve their community expansion needs.

Sales and leases of land surface have not been a very important source of revenue for the State. About $2 million per year, or less than $35 million, have been generated since statehood. This is an insignificant portion of the State's current budget. More intensive management of well located trust lands could increase these revenues. But, for the most part, State lands are not located where surface use demand is high, and surface management will not be very productive in terms of revenue.

The State has recently renewed its interest in land disposal programs. In the past, these efforts have been primarily limited to public land sale auctions, lease sale auctions, and the Open-To-Entry (OTE) program. The OTE program has been suspended since 1973, but recently new regulations have been drafted that could put the process in motion once again. Also, the State will unveil the new Homesite program in 1978 with the offering of nearly 200 parcels near Fairbanks in the 4th Judicial District. Agricultural land rights will be leased in the Tanana and Delta Junction areas as well.

To date, the State has transferred nearly 140,000 acres into private fee simple ownership through competitive bidding. More than 325,000 acres of State land are leased for agricultural, grazing, and recreational uses.

Almost 15,000 acres will be transferred to private ownership through the original OTE program. All of these activities will continue in 1978. The State will emphasize making lands available for homesite and agricultural purposes. There is talk of a remote cabinsite permit program, too.

The land facts presented here may appear confusing. In terms of raw numbers, we are confronting a wide range of acreage statistics. But when the lands are viewed in a use context, or seen in terms of location and relation to access or other supply networks, the acreage figures are more refined. This concept is explored further in the article by Sally Gibert entitled, "State Owned Land: Where Is It? - How Could It Be Used?"

INFORMATION ITEM

733 W. FOURTH AVE.
ANCHORAGE, ALASKA

FEDERAL-STATE LAND USE PLANNING COMMISSION, FOR ALASKA

STATE-OWNED LAND
WHERE IS IT LOCATED? HOW COULD IT BE USED?

By Sally Gibert

In recent months, there has been a growing public interest in State land disposal programs which would place more land in private ownership. Recent hearings on the State's open-to-entry and homesite programs, and the current Alaska homestead initiative have generated considerable debate. The following article offers important information about the location and supply of State land, as well as a discussion of some of the factors, both positive and negative, that go along with making public land available for private ownership.

Sally Gibert is a Natural Resources Specialist on the staff of the Federal-State Land Use Planning Commission. The Commission has been studying the location and accessibility of State, Federal, municipal, and private lands around Alaska's main growth centers and analyzing various methods of making public land available for private use. Commission recommendations on policy guidelines for the retention and disposal of State lands will be presented to the Legislature this month.

State-owned Land
Where is it located? How could it be used?

For most people, land is symbolic of many things of important personal significance like security, wealth, power, and happiness. Thus, Alaskan dreams about land range from thoughts of building a cabin in the woods, to the hope of acquiring financial security by selling land on a rising market.

Images like these and the hard realities of private land costs have created an increasing public clamor for converting more public land to private use. This demand is closely tied to the lure of the "Alaskan Life-style." Genuine attempts to accommodate these needs through the disposal of State lands should be carried out. But in order to be effective, we must have full awareness of the availability of appropriate lands and the subsequent results of their disposal.

The existing private land ownership patterns in Alaska stem primarily from Federal land disposal programs which began before Statehood. These Federal programs have provided about 877,000 acres of Alaska's private land, mostly from the Homestead and other settlement programs which were effectively closed in 1974.

Subsequent State land disposal programs have been primarily public land sale auctions (138,000 acres), land lease auctions (323,000 acres), and the open-to-entry program (14,000 acres leased, 1,900 acres patented to date). The results of these combined programs have placed over a million acres of land in private hands.

It should also be remembered that the 44 million acres of land granted to the Natives under the Alaska Native Claims Settlement Act (ANCSA) will be private lands that may be sold at any time after conveyance. At this time, however, it is difficult to predict the amount of land that may be sold or leased by the Native corporations because their management programs are so new. Only a few million acres have actually been conveyed so far, though recent efforts to speed up the pace of conveyance are starting to yield results.

Most of the people who feel that more private land is desirable in Alaska are demanding that it come from the seemingly vast supply of State lands. But, despite the fact that the State has selected some 70 million acres of land and will be selecting another 35 million acres, there is a relative scarcity of the kind of land that is useable for community growth. Most is far too remote from centers of employment and commerce.

It is natural to ask why the State has a shortage of lands that are really useable for development. The answer lies in the timing of Statehood rather than in the quality of land selection. Statehood and State selections came after lands had been homesteaded and private landowners

had acquired properties near communities and along the existing transportation systems. State selections also came after prime lands had been set aside for the congressionally mandated trust programs. The best of the remaining State lands were chosen by the boroughs and some were sold to private parties.

To see who owned the accessible and buildable lands in the vicinity of the new capital site, the Federal-State Land Use Planning Commission studied in detail the land ownership and soil characteristics of lands within one mile of road or rail access from Talkeetna to Palmer. To someone driving along the Parks Highway north of Palmer, the relatively vacant land pattern is deceptive. Many would assume that much of it is State land. However, the Commission found that less than 9,000 acres (10%) of the lands suitable for residential development are general State selections. On the other hand, 82% are already privately owned. The remaining 8% are trust lands or borough lands. A similar pattern exists for the lands around Fairbanks. In the Anchorage bowl, where State lands are particularly scarce, there are less than 240 acres of uncommitted State lands.

Around Alaska's smaller communities, a different, yet parallel, land pattern has emerged. Over 200 Native corporations have selected a sizeable portion of the lands suitable for intensive land uses along the coast and river systems and around lakes. Native villages, like communities in general, have traditionally been established in the most habitable areas, so it follows that a large percentage of Alaska's buildable lands are Native selected, about one-third according to U.S. Soil Conservation Service data. State lands, which frequently border these first priority Native selections, contain only about one-fifth of the buildable lands in Alaska. A sample study in the Dillingham vicinity showed that only % of the accessible, buildable lands were State selected while 67% w : selected by the Natives of that region.

The fact is that much of the State's lands are inaccessible or difficult to develop because of steep or difficult topography, swamps, or severe permafrost. This situation should be kept in mind when designing land disposal programs that will maximize the use of both private and public lands at the least cost.

Most of those who contemplate owning 40 to 160 acres "somewhere out there" think of a cabin in the woods on gentle terrain, hopefully on a lake, stream, or near a road. This trend can be illustrated by looking at the locations where people staked open-to-entry leases. Almost 80% were clustered around lakes and streams which provided easy access and potable water. There are, of course, available State lands that fit this description. But they are limited and should be disposed of judiciously.

A wholesale giveaway of State lands will allow the lucky few who jump in first to acquire large blocks of the most desirable or close-in lands--

far in excess of their ability to use them. Then, as the best land rapidly dwindles, the remaining people would be forced to select from a pool of increasingly remote or unuseable land. Consequently, smaller scale land disposal, like the State's new 5-acre homesite and updated open-to-entry programs, will allow more people an opportunity to acquire useable State land.

In addition to those who want accessible land near existing communities, there is a sizeable segment of the population who would prefer a more rural setting. This group, typically young people, still need access, schools, and possibly other services like fire protection. Rural State lands with existing services are in extremely short supply. In fact, because so few State lands have road access, the State Division of Lands actually had difficulty locating appropriate lands to be made available this spring under the 5-acre homesite program.

While the supply of accessible land is small, there is a significantly larger quantity of State land suitable for residential or recreational use in remote areas. The limiting factor for remote land disposal programs is cost. The high public costs of remote and rural land disposal are not necessarily prohibitive, but they do demand public recognition of the choices involved.

Recent laws and court interpretations are forcing the State government to provide expensive services to resident landowners, even to those in remote areas. In Skwentna, for example, the State must pay the costs of flying bush children to school. Although this example is extreme--it indicates a trend toward increased State and local responsibility to rural residents involving great costs to taxpayers.

To minimize these high costs, remote land disposal programs should be carefully planned to consolidate transportation, survey, administrative, and educational requirements. The Division of Lands has estimated that the costs of land surveys, soil analysis, and other purely administrative costs (roads, schools, etc., not included) for the 5-acre homesite program will be about $1,000-1,200 for each lot in the subdivision. Scattered sites would be more expensive. Lack of planning prior to any major land disposal will permit randomly dispersed subdivisions which would be extremely costly. For example, at the present price tag of $125,000 per mile for construction of modest rural roads, and $1,500 per mile per year for maintenance, the State cannot afford a proliferation of rural routes.

There are some Alaskans, however, who do not want roads, schools, and other amenities associated with an urban or rural residential life-style. These people would prefer to live in the relative isolation of wilderness or semi-wilderness. To satisfy their needs at minimal expense, the State could retain the land in public ownership and simply give the individual a permit to build and occupy a cabin for a number of years. When the permittee vacated the cabin, it would become public property to be used by the next permittee.

This approach is in keeping with traditional Alaska back country views of land and cabin rights. Sites would be sufficiently isolated so public schools would not be required or expected. By granting "use permits" for remote State lands, the government could reduce the necessity of providing costly and unwanted services, while still allowing scattered residential use of the land that would otherwise remain vacant.

While attempting to meet the demand for additional private land in Alaska, we should not lose sight of the importance of retaining adequate accessible recreational land in public ownership. Alaskans still have the opportunity to avoid the frustration of mile after mile of "No Trespassing" signs. This is critical for those who want to hunt, fish, hike, ski, or snowmobile on public lands.

If public lands important for present and future recreational use are not identified and retained prior to land disposal, Alaska will experience a private land ownership pattern will diminish Alaska's unique life-style. A diversified and discreet land disposal program could promote additional private land opportunities without sacrificing these public values.

policy

POLICY FOR LAND RETENTION AND DISPOSAL

CONTENTS

Policy For Land Retention and Disposal

Introduction

The State's primary policy statement about land disposal is in the Constitution.

> "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use and development consistent with the public interest." (Constitution of the State of Alaska, Article VIII, Section 1.)

The statutes modify this mandate slightly by saying

> "Disposal and use of State lands shall conform to the constitution of the State of Alaska and the principles of multiple purpose use consistent with the public interest." (Alaska Statutes, Section 38.05.285.)

Both of these statements are so general as to be of little use when it comes to making day-to-day decisions about the extent, timing, and location of State land disposal. In the absence of legislative guidance, the administration has been left to make the major decisions. Administrative policy has varied widely over the years. During the late 1960s and early 1970s, the State sold 138,000 acres, an area 9 times the extent of the development of the Anchorage bowl. This land went to approximately 4,000 buyers. In recent years, disposals have been held to a minimum.

Instead of setting policy guidelines, the Legislature has responded by legislating programs, such as the 1977 Homesite Law and the new leasing law. So the State remains without a clear policy to guide land disposal or retention. In recognition of this lack, Senator Kay Poland, Chairman of the Senate Resources Committee, requested the Commission to develop recommendations about State land disposal policy. During its December meeting, the Commission debated this policy.

The following documents provide a glimpse of land disposal policies which have been developed by other major public land holders. First, we included the statement of land management policy adopted by the Greater Anchorage Area Borough several years ago; then a summary of the land policy and practices of other major land holding states; and finally, an excerpt from the Federal Land Policy and Management Act of 1976 which governs Federal Bureau of Land Management lands.

STATEMENT OF POLICY ON THE USE OF BOROUGH-OWNED LANDS

Anchorage Municipality, 1975

The policy of the Greater Anchorage Area Borough concerning use of Borough-owned lands by persons or organizations other than the Borough itself is set by Article 20.20 of the Borough Code of Ordinances. Borough lands which are subject to uses of this nature under Article 20.20 are lands which are in the Borough Land Trust Fund. Other Borough lands which are not in the Land Trust Fund are managed by specific Borough departments. Any use which is contemplated for non-Trust Fund lands must be requested through the department managing these lands, such as the Department of Public Works or the Department of Parks and Recreation.

It has been the general policy of the Greater Anchorage Area Borough to permit the use of Land Trust Fund lands by persons or organizations other than the Borough itself only when such use is demonstrated to be in the public interest. In the past, the only private uses permitted have been for park and recreation developments which are open to the general public without restriction. Section 20.20.070 specifies that the preferred management policy for Land Trust Fund lands requires that the lands be leased and not sold. Section 20.20.070(c) permits the lease of these lands to "duly-qualified non-profit corporations", for a period not to exceed 55 years, with a yearly lease payment of not less than 2 1/2 % of the appraised fair market value, and with required re-appraisals at five-year intervals. Land Trust Fund lands leased to private parties who do not qualify under the "non-profit corporation" requirement may be leased for a period not to exceed 55 years, at normal fair market value rates, with required five-year reappraisals. All leases or other disposals of Land Trust Fund property which have been negotiated by the Land Trust Fund Council must be reviewed by the Borough Assembly prior to becoming final.

As previously, stated private uses of Borough-owned lands have been restricted to park and recreation purposes open to the public at large. The Borough has not looked with favor upon private developments on public lands which would be restricted in scope or in actual use to any one group or organization, or to any class of persons smaller than the general body of borough citizens. Uses may not be limited to members of an association or club, or to activities sponsored by an association or club, even though membership in that club may easily be obtained. Since these public lands belong to all of the citizens of the Borough, and to

both present and future generations, any private use of Borough lands must sufficiently protect the property rights in these lands which are owned by all citizens.

If these basic criteria for private use of Borough lands are met, then additional considerations should be taken into account. The drastic alteration of existing topography or vegetation is not generally permitted. Site development should be no more than necessary for the use permitted, and should be of such nature that the land will re-vegetate or otherwise restore itself if use of the site for the permitted purpose ceases in the future. Requirements may be imposed for sanitary facilities, trash removal, supervision of activities by qualified personnel, and any other aspect which may be needed to assure the clean, safe and orderly use of the site. Depending upon the activity, insurance may also be required to protect the Borough against claims for damage to persons or property as a result of use of the site under lease from the Borough. It is apparent that the person or organization seeking such a lease should be a recognized legal entity, qualified to obtain insurance and to accomplish the requirements necessary to protect the public interest.

Land Disposal Policy In Other States

In June of 1976, David Hanson, Chief of the Alaska Department of Natural Resources Planning and Research Section, wrote letters to the land departments of many states with situations similar to those of Alaska. The focus of the questions asked by Hanson was on the land disposal policy employed by the various State land departments. The responses from the different states varied, but many interesting issues were raised. Some of the states' only responded as to the policies utilized with regard to their school lands. But the responses shed a little light on a number of topics important to a discussion of State land disposal policy.

The nature of the questions asked by Hanson is characterized by these examples.

1. What methods of programs would insure that land disposal would be restricted to conform with appropriate land uses as determined by statewide policy or local plan?

2. What methods of disposal would prevent or discourage land speculation yet recognize real needs for land?

3. What is your state's experience or policy in the application of restrictive covenants or use easements?

4. Has your state disposed of land by means of perpetual, non-possessory interests in land that are tied to a specific use, while retaining other development rights?

5. Has your state disposed of land with stipulations that the land be developed within a certain time period, and if so have stipulations been effective in meeting the particular objective?

6. What general classifications of land does your state sell or lease and what is your criteria for disposal or public retention?

7. What degree of administrative or land management responsibilities might be associated with the implementation of the above questions?

8. How much land does your state own and how much has been sold?

The responses, summarized and state-by-state follow:

California

William F. Northrup, Executive Officer of the State Lands Commission, responded by pointing out that the Commission administers school grant land, swamp and overflow lands, and tidelands in the state. Including tidelands, the Commission today controls more than 5 million acres of But 5 million acres of school lands have been sold along with 2.2 million acres of swamp land. There have been no land sales since 1970 except those needed by certain public agencies. Northrup characterized California as moving towards the long-term lease in the application of covenants and retained state rights in the land because perpetual covenants and sale deed restrictions had proved unworkable. Not only was it difficult to enforce deed covenants, but it was also near impossible to foresee the needs of the future. Leasing allows a vehicle for change to meet these changing needs. In California use restrictions have been used in leases which stipulate development within a certain time. Such restrictions have not been attempted in deeds of sale. Above all, reminds Northrup, that effectiveness of time constraints, or any other restriction, is only as good as the agency's management and police efforts.

Idaho

Natural Resource planner, Lynn Thaldorf, answered for this State's Department of Lands. Idaho received approximately 3.6 million acres at statehood and has sold a little over 1 million acres to date. State land sales are conducted with full notice to the appropriate county land use agency. Idaho retains lands valuable for timber, recreation, or watershed purposes. Lands useful for agriculture and grazing or which are isolated or surrounded by private property holdings are usually made available for sale. The state also carries on an active exchange program with the Federal government to compensate for the shotgun ownership pattern of some state lands. Idaho has had little experience with use restrictions, timed development, or scenic easements on state land disposals. Land sales are all on an oral auction basis. Patented sale tracts are nominated by the community at large. Land office agents then analyze the nominated parcel and determine whether a sale action is appropriate. Idaho has no regulations to restrict the use of lands once they are sold. Land use control is a function of local (county) governments.

Nevada

The Division of State Lands in Nevada now owns 2,796 acres. Deputy State Land Registrar, Kigoshi Nishikawa, writes that approximately 2.7 million acres of State lands have been sold. Nevada used to reserve mineral rights to land sold by the state, but an attorney-general's opinion ruled those reservations invalid. Nevada retains no authority to control land uses after the land has been sold. Land use controls

are a local perogative except in certain areas legislatively recognized for their critical environmental values. Nevada quit selling state lands in 1965 and has no experience with timed development, use restrictions, or any other land use controls. Nevada appears to have little interest in land use controls at the state level. Nishikawa suggests that management responsibilities are particularly onerous when the state attempts to tell people how to use lands in private ownership. Nevada could well serve as a model of the western land ethic.

Louisiana

C. J. Bonnecarrere, Secretary of the State Mineral Board, wrote an exceedingly friendly letter. In it he advised that Lousiana had made all of the mistakes that could be imagined in the disposal and management of their state's land. He reported that it was 1930 before the state began to take their management responsibility seriously and started the resource assessment work necessary for making good constructive planning decisions. Bonnecarrere pointed out that what was significant to Alaska as a state was also important to the nation as a whole. He urged the State to go slow and purposefully and not be afraid of developing innovative procedures. Bonnecarrere felt that the cost of multiple "gold rushes" would be prohibitive for the State and the nation. He warned that resource evaluation was very important so that use decisions take all values into account. He found single use management is destructive from either side of the coin. It must be remembered that the passage of time significantly affects the value of certain resources. Bonnecarrere spoke from 36 years of experience in the Louisiana land department and urged Alaska to recognize that retention of certain lands is in the best interests of the State and its people.

New Mexico

Assistant Attorney General, Ernest L. Padilla, of the State Land office wrote for the Commissioner of Public Lands in New Mexico. New Mexico was originally granted approximately 13 million acres of land. About 4 million of these were sold, although a current moratorium has suspended sales of state lands. The remaining 9 million acres are considered trust lands and are managed for revenue purposes. Padilla points out that the best interests of the trust do not always coincide with those of the general welfare of the state. The state moratorium on land sales is based on the view that, over the long run, land will continue being a much better asset. The state does make land available to municipalities. Leases, easements, water rights, timber and gravel sales are all administered by the Commissioner of Lands. The purpose of all land transaction is to get the best deal for the trusts. New Mexico depends on local government for land use controls.

Wyoming

Commissioner of Public Lands and Farm Loans, A. E. King, responded for Wyoming stating that his office adminstered 3.6 million surface acres

and 4.4 million acres of granted mineral land. King advises that the principle tool in restricting land use is to retain ownership. The only title reservation for state land sales is the mineral estate, and Wyoming does not utilize restrictive covenants because it is felt that they unfairly restrict the flexibility of the purchaser. In order to curb speculation, Wyoming often leases valuable lands and even if lands are sold, easements for public access for fishing, hunting, and other purposes are regularly reserved. The state retains development rights when they grant easements but use requirements, development timing, or length of tenure are not a subject of sales. Wyoming utilizes a homesite lease with development requirements for the planned development of recreation areas. State land disposals are only made when it is in the best interest of the taxpayers of the state. Wyoming also recognizes that land ownership requires land management and has a complete and professional staff of appraisers, foresters, and mineral landmen. Wyoming has sold a bit more than one half million acres of land of an original surface entitlement of 4.2 million acres. They have current leases on 3.6 million acres. The tone and competence of the letter was of high quality which may speak for Wyoming's land management program.

Montana

Acting Commissioner, Leo Berry, Jr., of the Department of State Lands wrote from Montana, and his response concerned school lands in the state. Montana sold 1.1 million acres of their original entitlement and currently manages the remaining 5.1 million acres. Policy since 1970 has been to not sell school lands because land ownership has been a better hedge against inflation. Agricultural lands have not been sold for more than 15 years because lease revenues have been more lucrative than returns from investment of land sale principal. Localities are responsible for land use control, but Montana believes that lease restrictions are more effective land use controls than deed covenants. For land sales, acreage limitations and use restrictions are the best way Montana has found to curb speculation, but Berry agrees that it is difficult to totally prevent it. Grazing land and "4th class land" is the only type of land sold in the past few years. Orderly development of subdivisions is the responsibility of the Community Affairs Department who watch over water and sewer requirements. 4th class land is only offered and sold in alternate lots of 5 acres and less. Revenue production is the chief purpose of trust land management. Timber and water shed lands are not sold under any circumstances. Montana sold school lands rapidly to establish a general fund in the 1890's. Since that time, Montana has restricted sales to lands of limitied resource value where management costs exceed returns.

Colorado

Raymond H. Simpson, President of the State's Board of Land Commissioners, responded to the Hanson questionaire. Simpson said that Colorado's land

use laws were the responsibility of the counties. The board cooperated with these local governments and state land was zoned according to local zoning restrictions. Simpson said large BLM ownership in their state reduced the land available for commercial purposes. Simpson thought strong zoning efforts could be successful in Alaska too. He felt that public lands should be subject to the same restrictions imposed on those lands privately owned. Colorado sold 1.7 million acres of their original entitlement of 4.7 million acres. Simpson stressed that leases must be managed and that covenants in patents have the same drawback. He suggested that future land use be controlled through the local zoning apparatus instead. Speculation can only be discouraged according to Simpson, when sufficient acreage is available. State land agencies must be careful to prevent a government created shortage. Retention of land is based on long term worth to the State. Agriculture and grazing leases are the dominant type employed in Colorado.

Utah

Utah has sold 5.5 million acres of an original grant of 9.5 million according to Donald G. Prince, Assistant Director of the Division of State Lands. Utah has no statewide land use policy, but any land owner is subject to local zoning requirements established by the respective county government. Utah sells lands on a competitive bid basis and reports that they have formed no method which would prevent or discourage land speculation. Utah does not employ restrictive covenants except for the reservation of mineral values. Sales of state land are only possible when the State Land Board determines that the action is in the best interest of the state. Sales are primarily for industrial development according to Prince although residential sales are being considered for the energy impact towns.

North Dakota

Owen L. Anderson of the State Land Department's legal staff replied for North Dakota. As it happens, North Dakota has neither statewide or local land use plans. Anderson could envision cooperation between the trust boards and the local land use regulations, if they are adopted, but reminded that the trust boards had a fiduciany duty above all else. Some use restrictions have been discussed for state lands but none have been implemented. Anderson expressed the opinion that speculation was the mechanism by which land evolved to its highest and best use. While speculation has had some harmful effects on the environment and economy of certain areas, it also serves to better manage the lands in others. For instance, a speculator is closer to the land and has a better feel for the value of a particular parcel. This is especially true when the state land agency doesn't have the luxury of a large number of field men. Anderson believes land use control comes through local comprehensive planning, enforced zoning and building codes, and reform of Federal tax laws that reward speculation. The best investment a state can make in good land use control is through local government.

North Dakota does not utilize restrictive easements and covenants in its land sales. But recently the Land Department has looked at the "scenic" easement favorably. The state has also considered selling only grazing rights to some lands so as to preclude the cultivation of native grasslands. The deeds to these lands would contain a reversionary clause which returned the land to the State if the owner ceased to use the lands for pasture and meadow purposes. This is only being discussed, and the state has no actual experience with the sale of limited rights in land. North Dakota has not considered requirements for timed development. Agricultural lands are sold while pasture and meadow lands are usually leased. Agricultural lands are sold because North Dakota legislature and trust boards feel that farmers are the best stewards of the land. Natural acres best suited for wildlife habitat, waterfowl production, or parks are not sold at public auction but are sold to other state agencies at private sales. Anderson feels that the fact that many state agencies manage their own lands is a deficiency in the system. But he also believes that a more rational centralized management would be politically impossible.

North Dakota, like all the states except Nevada, retains all minerals in the lands that are sold. The state originally owned 3.1 million acres of land and acquired an additional 1.5 million acres through farm foreclosures during the Depression. All but 40,000 acres of the farm lands have been sold and approximatley 750,000 surface acres are still managed by the State Land Department. Also the state controls more than 3 million acres of mineral lands, 800,000 of which are classified as coal lands. Anderson said that in order to utilize all of the techniques described in ADL's questionaire it would require a large highly professional permanent staff. He did not see this occurring in frugal North Dakota.

Oregon

William S. Cox, Director of the Division of State Lands complained that Oregon disposed of their grant lands rapidly and the methods could be characterized as a broad giveaway. Cox argues that by 1976 standards, the grant lands could have been the key to maintaining state policies on hunting, fishery, and other land use needs not recoginized by the Federal government. Cox asks Alaska if we are really clear about the purpose of state land ownership, wonders if disposal is really necessary, and urges consideration of the long term lease as a means for permitting use but maintaining ownership. Oregon no longer sells land and stopped sales back in 1969. During their active sales program they used no restrictive covenants except mineral reservations. Cox points out that the state can make such deed restrictions as it might choose, but they are often impossible to enforce after the first buyer in the chain.

Cox believes speculation can only be curbed when the government owns the land and permits its use through leasing. Long term ground leases will permit development and amortization of lessee's costs. Then at time of

renewal the situation can be reevaluated. Periodic rental adjustments reflect the increase in land value. The restrictions used in leases are considerably more effective than the same terms in a sale deed. Oregon leases grazing lands but most of the more productive properties have already been sold, many before 1910. But even for the 770,000 remaining state acres, Cox has a complete professional staff of timber, range, recreation, and wildlife managers. Cox calls for the utilization of professional expertise to translate the state's needs into specific management criteria. The level of staffing depends on the level of control desired and the intensity of use in Oregon creates different demands than that experienced in Alaska. But Cox stresses that ownership requires management. Oregon's original school grant was 3.5 million acres and the rapid sale of these lands has been chronicled as a sad day in Oregon history. Cox urges study of the Oregon experience in order to really understand the importance of land ownership.

Arizona

John M. Little, Administrator of the Land Use and Planning Section of the State Land Department answered briefly for Arizona. Although not responding to the eight specific questions, Little enclosed a copy of the State Land Department's Land Use Plan. The planning power was delegated to the State Land Commissioner in 1972 by a legislature that wanted the Land Department to "Make long range plans for the future use of state lands in cooperation with other agencies and local political subdivisions". Rather than halt business and create a PLAN for activities that had been going on for 75 years, the Land Department designed an Operating Program for Environment and Resource Advantages. The Land Department used program rather than plan so that people would realize that the scheme was already in action.

Little blames the failure of most State Land Use Plans on the fact that no one realizes that the point of beginning is not the plan but the need to state the objectives (or policy). Planners have a penchant for trying to overlay the natural tensions of society with a universal "plan". But it is difficult to formulate a system that would cover any and all needs for food, fiber, minerals, aesthetics, recreation, etc. Another planning shortcoming is the absence of compatible terminology between the different levels of practicing planners. This is true too in Alaska when we compare State and Federal land classification programs. In order to make a plan at all useful, we must be clear about the tangible purpose of our efforts.

Arizona follows this policy in its land use operating program:

> "It is the policy of the State of Arizona to manage its land and resources for perpetual production of food, fiber and timely recovery of minerals, and
>
> (a) establish workable criteria to modify the stated objectives of the policy, and

(b) within the standards of the policy, to allow the people of Arizona the highest degree of freedom to chose their life-style and the industries to accomodate these life-sytles."

In addition, Arizona considers all public property as a trust resource. Leases and sales are at fair market value. Water use law is also carefully proscribed. Arizona maintains as complete a resource inventory as they can afford. Land use decisions are designed by professional resource managers. Public input is sought and decisions reflect both local and statewide interests. Appeals are accommodated in the process as well. Once a program is adopted, the Land Department is responsible for implementation and enforcement. The management criteria established by the Commissioner for the professional managers is instructive.

Values: Every acceptable and available tool and theory is used to arrive at monetary market values and weigh these against values that may be lost by the activity proposed.

Leases: Grazing - the ability to use. Agriculture - availability of water.

Sales: Sell only when sale can be justified on some basis other than that there is a buyer.

Trades: Improve land ownership patterns for trust management and as a preference over sales.

Selections: The highest forseeable value and management patterns.

Water: Beneficial use on a priority basis as provided by law.

Arizona believes that its policy is based in law and its process is designed to achieve the challenges of real life, land management, and administration. The emphasis on clear statements of policy and the attitude that day-to-day operations cannot be suspended while a plan is being formulated could serve as good examples for Alaska.

TITLE I—SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

SHORT TITLE

43 USC 1701 note.

SEC. 101. This Act may be cited as the "Federal Land Policy and Management Act of 1976".

DECLARATION OF POLICY

43 USC 1701.

SEC. 102. (a) The Congress declares that it is the policy of the United States that—

(1) the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest;

(2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;

(3) public lands not previously designated for any specific use and all existing classifications of public lands that were effected by executive action or statute before the date of enactment of this Act be reviewed in accordance with the provisions of this Act;

(4) the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;

(5) in administering public land statutes and exercising discretionary authority granted by them, the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public; and to structure adjudication procedures to assure adequate third party participation, objective administrative review of initial decisions, and expeditious decisionmaking;

(6) judicial review of public land adjudication decisions be provided by law;

(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;

(8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use;

(9) the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

(10) uniform procedures for any disposal of public land, acquisition of non-Federal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be consistent with the prescribed mission of the department or agency involved, and reserving to the Congress review of disposals in excess of a specified acreage;

(11) regulations and plans for the protection of public land areas of critical environmental concern be promptly developed;

(12) the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands; and

(13) the Federal Government should, on a basis equitable to both the Federal and local taxpayer, provide for payments to compensate States and local governments for burdens created as a result of the immunity of Federal lands from State and local taxation.

(b) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law.

(continues)

M A K I N G S T A T E L A N D
A V A I L A B L E F O R
P R I V A T E U S E:
M E T H O D S

private use

CONTENTS

Making State Land Available For Private Use

Introduction

Alaskans want land for recreation headquarter sites. Some people fly to their sites, others prefer to use boats to travel rivers and lakes or bays and oceans for access. Other people prefer to ride the railroad or drive their car in order to reach a recreation cabin or campsite. Hiking, skiing, snowmachine, and ATV can also be used for access to recreation sites. The Alaska lifestyle makes demand for sites of this nature high.

Agricultural use of State lands is often the basis of demand for land. Potential agricultural uses range from 5,000-acre commercial grain farms to 10-acre subsistence farming efforts. Interest in grazing livestock on State lands exists as well. The variety of demands for agricultural lands requires a range of programs to satisfy the range of potential uses.

People want State lands for residential homesites. A portion of this demand is focused around urban centers while some of it is more rural in character. There are also those hardy souls looking for an isolated homesite. State lands are available to satisfy the latter demands while those who require their homesites close-in will have to look to other land owners. The same rule applies to business locations, although some commercial opportunities may be realized on State trust lands.

The papers in this section deal with disposal methodology. The first paper is a fact sheet on the homesite program. The second describes some changes in the Open To Entry program that were suggested by folks who entered land under its authority in the Talkeetna area. The third paper in this section looks at some varieties of demand for land in Alaska and illustrates, for discussion purposes, appropriate responses available to the land owner. The final paper is a listing of the pro's and con's of certain disposal methods that were analyzed by the Department of Natural Resources.

FACT SHEET ON HOMESITES

The homesite entry bill was approved by the last session of the State Legislature. The Division has received numerous inquiries about homesites. The following list of facts should help answer most of the questions raised:

1. There are no homesites available now. It's anticipated there will be by next spring.

2. The homesite entry lands still need to be classified and surveyed.

3. Regulations needed to implement the law also have to be developed. They are being written now and should be ready for public hearing around the end of August or the first of September.

4. The regulations will then go to public hearing. They will be held statewide. Times and places will be announced when the regulations are ready. The hearing process should take about 90 days.

5. The law specifies that land be made available in each of the four judicial districts on a rotating basis. The rotation will start in the Fourth Judicial District (Fairbanks), then to the Third (Anchorage) and then to the First (Southeast). The Second Judicial District (Arctic Slope) does not have any land that meets the criteria of the new law.

6. When homesite land becomes available it will be advertised for three consecutive weeks in newspapers and on radio and television.

7. An applicant must be 18 years old and a resident of Alaska for six years to qualify.

8. If there are more applications than land available, preference will be based on length of residency.

9. Before the homesite will be conveyed the applicant must build a habitable, permanent, single-family dwelling and occupy the land for a cumulative total of 21 months within a three-year period. Twenty-year residents only have to live on the land for five months.

10. The fee for filing an application will not exceed $10. The only other cost is for reimbursing the State for survey and platting work.

OPEN-TO-ENTRY, THE TALKEETNA EXPERIENCE

Excerpt from
Land: Bridge to Community in the OTE Area North of Talkeetna
by Dr. Robert A. Durr, August 1974

The dilemma the Entry lands people face is this: they recognize the right and des[illegible]y of the public's having access to the land just as they had, a[illegible] do not want to exclude anyone who wishes to share in the real va[illegible]f living on the land as they have (speculators and developers excepte[illegible]At the same time, they are clearly aware that, if the present O[illegible] Entry laws are maintained, allowing the occupancy of adjacent 5 [illegible]racts blanketing the land, the very values that brought the people to t[illegible] land and are bringing others would be destroyed.

In wrestling with this dilemma, the people have shaped the following recommendation for changes in the Open to Entry land laws. (insofar as the Open to Entry lands are microcosmic of the land situation in Alaska generally, these recommendations might apply to the overall question of land use.)

A) Perhaps the simplest solution deemed desirable by all the entrymen would be to close the present Open to Entry lands to further occupancy and open new areas to entry. As Don Sheldon put it, "If this particular area is saturated, (and) it looks to me that it is, and they intend to hold the line on the Open to Entry sites, I say close the local areas that are saturated and open some of the areas that are not saturated." He suggested, as possibilities the Kuskokwim, Colville, Yukon, Koyukuk areas, the Brooks Range, and the north side of the Alaska Range. Jim Barbeau agrees with the principle of widely dispersed Open to Entry areas: "These places shouldn't all be in one area----a large congregation in one area which would deplete the resources. They probably should be spread out all over the State."

Several people advised that a closure at this time, before things had gone too far altogether, would permit everyone, including the State, to assess over the next year, or five or ten years, what the Open to Entry Program has achieved and whatever and how its intitial policies should be changed or modified.

Mike Fisher of Talkeetna has been an interested and knowledgeable observer of the Program and its entrymen and believes it has been successful in the humanistic terms of this study:

> In general, I can say that I'm pretty pleased with what I've seen in the Open to Entry area of the survey. I've seen a lot of good old-fashioned nice neighborly things happeing out there. And I've met a lot of nice people who are helping themselves and their

neighbors, and they're living pretty well along the lines of what we'd call the good old days.....We do have a sense of community and a spirit out ther_, and we do h' hat I think has the potential for very nice things happening ıi that some of the kids that are raised out there will be ontributors to the society and the development of Alaska to come.

He therefore concludes that:

> If we have a human resource and a l. ouce in Talkeetna and around Talkeetna, and the results of this study indicate that people are bettering themselves, or attempting to better themselves, and the society is being served, and enlightened, and enhanced, then I say let's not run this thing into the ground; let's just say that with the present population density in this area of 20 persons per each 640 square acres, let's just see what develops out there.

Gene Roguszka concurs with the general principle and suggests that "when the filings reach the one third stage of land within a section, a moratorium be placed on further filings. The moratorim should last for a period of 36 months, the idea being this: give the opportunity for things in that particular area to stabilize." He adds that a provision would be necessary to prevent the unstaked areas from being used in the interim so that they would still be desirable if and when the Program were reopened in those areas.

B) The second most prevalent type of proposal was along the lines of an increase of acreage to each entryman. The specific numbers suggested ranged from 10 acres per person (a man and wife could than claim 20 acres between them) to 40 acres per family unit. (Surprisingly, perhaps, no one seriously urged the adoption of the homestead-scale of 160 acres, because they did not feel that much land to be necessary to subsistence and the best interests of the ecology and because they are aware of the abuses and specualtion that have plagued the Homestead Act.) The greater acreage allotment would be retroactive in that entrymen who have already filed on 5 acres could expand their present site to the maximum acreage allowed. In cases where 5 acre plots have been leased or bought adjacent to one another, as is frequently the case around lakes, the entrymen would have perforce to expand to the rear of his original 5 acres in "railroad car" fashion. This would at least be preferable to being restricted within the original allotment. It would have to be specified that the additional acreage be contiguous with the present site, in order to help obviate the temptation to speculate.

Most of the entrymen actually living on the land would agree with Joe Wilson's statement:

> I think where we need different land laws for different kinds of people is different laws for recreation-type people than you have

> for, you might say, homestead or live-on type people.....Five acres are fine for recreation..... to go out to a park for a weekend or so.....some people want to go out for, say a few years.....We've had all kinds of programs for national parks, national forests, and so forth, that are aimed at city people going out there for a short time. But I think that--- even though the people who want to live out in the bush aren't a great number of people and don't have a lot of voting power (as compared with the multitudes in the cities), I think there should be some provisions for people who want to go out into the bush and <u>live</u> there.

Jim and Gloria Barbeau of Talkeetna felt strongly that if a man or family can "prove up" by making a go of it on the land, the State should survey and give them the land. There is in fact widespread disgruntlement over the State "being in the real estate business": in effect managing the people's inheritance in order to sell it to them, as old-time bushman "Whitey" Rudder put it. It is argued that the revenue the State gets from the taxation of the land consequent to a person's receiving title is all that should be required.

C) Two other closely related proposals were:

1. To withdraw "green-belt" areas from occupancy around those localities which, because of desirability, have become densely populated, such as around most lakes and streams. This proposal would leave the "green-belt" acreage in the State's hands and open to the public for hiking, camping, and so forth, but it would permit the entrymen within its enclosure to utilize the resource, such as timber and firewood. The optimum extent of the "green-belt" that would afford a sustained yield of wood, berries, wildlife, and so forth, as well as guarantee an expanse of unoccupied land adequate to the psychological and spiritual needs of the people, can probably be best determined in consultation with forestry experts. But the people's initial estimate is that the "green-belt" would have to be no less than 60 acres deep on the score of the latter consideration alone.

2. A proposal to "checkerboard" the 5 acre plots was made by a couple from Anchorage who use their 5 acre site for recreational purposes. The idea is to prevent the possibility of the 5 acre sites being located immediately adjacent to one another, and thereby insuring a greater degree of privacy, quiet, and unspoiled landscape. This plan is obviously most feasible for the recreational use of the land and would be inadequate to the needs of the year-round homesteader. A combination of a "checkerboard" and "green-belt" patterning of certain areas might be better than either alone.

D) A large portion of the people living on the land expressed concern, anger, and resentment at the prevalence of speculation. With land for human use so much at a premium, they vigorously object to those who would "tie it up" just to make money from it. As one individual put it:

> Open Entry I think is being abused as much as the Homestead Act was. You know, people were supposed to homestead and farm and build communities. In Alaska they homesteaded, tore down the trees, and then they left, because that's how you get your land. So that program was badly abused. So now they come up with Open Entry, and it's supposed to be another deal where everybody gets land they want to use-----you know, it's actually written in there that you have to want to use the land yourself-----but it's being abused the same way. Everybody goes out and stakes, but they're not using it. They want it so they can sell it.

In everyone's opinion, it should not be possible for anyone to spend a few hours on the land, pay fees, and eventually obtain title. Mike Fisher sums it up:

> I'd like to see some aspect of the law that tended to preclude speculation with Open to Entry lands.....The law should have some provision in it that favors an individual who will go out and sustain himself on the land. And by sustain himself.....I mean actually go out there and live on the land, and learn some things and make some observations.....I think that a requirement to obtaining eventual title to this land should be at least a token amount of living on it. I don't believe it should be possible to just go out and set foot on the land once.....and wind up with that land. It's that sort of thing that encourages useless and blind and deleterious speculation.....

The people are not adamant about these recommendations as constituting the only solutions to their dilemma. They mainly wish to make their problem clear to those who represent them and are empowered to take whatever action would effect a solution in the best interests of the land and the people, preserving those essential life-values that the humanistic use of the land cultivates.

FSLUPC Staff Paper
November, 1977

Disposal Methods

This paper defines various typical forms of demand for private acquisition of State land; outlines the different expectations and requirements of both the user and the State in each case; and suggests disposal methods which meet private and public interests as far as possible.

We have assumed several common public objectives that apply to any form of land disposal. These are:

1. To enable the various types of users to acquire land in locations and forms they need and, conversely, to prevent the land offering from being usurped by speculative interests.

2. To accommodate the interests of both the user and the public as far as possible.

3. To assure that land is used in accordance with State and local land use plans.

4. To minimize administrative costs.

We are asking Advisory Committee and workshop members to analyze and criticize this draft so Commissioners can have the benefit of your thinking at the next meeting. In writing this piece, the author has assumed the role of both the private interest and the State somewhat facetiously, but with the hope that doing so will spark your interest, critique, and comment.

Case 1

The individual who wants a site for a permanent residence within daily commuting distance of a community. Generally, this individual needs to be able to drive daily to the central community where he earns his living, shops, and educates his children. He probably needs financing for his house, so the method of conveyance should not pose a barrier to lending. Though he expects to build soon, life is uncertain; he may run into financial or other difficulties, so he doesn't want to be obligated to build by a set time. Public sewer and water are desirable, but if unavailable, the lot size should be large enough for on-site water and sewer. In most areas, two acres is adequate for this purpose. He is willing and able to pay a reasonable price at residential property rates, but he can be outbid by buyers who may want the land for commercial, industrial, or speculative purposes.

State interests. The State has very little land of this type to offer. Where it does own land of this type, the State's primary objective is that the land be well developed in residential use.

The State realizes that gaps in the growth pattern, caused by failure to dispose of public lands or by speculative landholdings, can add to the costs of public utilities and services and increase commuting distances. Sometimes the public values of close-in public recreation space outweigh these costs, but our case deals with close-in lands that are better suited for private residential than for public recreational use.

Disposal methods. Since the land in question is within the immediate range of community growth, the local municipality will be the recipient of both the public costs and public revenues of development. By State law, the municipality has local planning authority for the total community. For these reasons, it is decided that disposal is most appropriately handled by the municipality.

To protect the basic State interest that the lands be well used, the State decides to require local zoning and subdivision regulations as a condition of conveyance of State lands to the municipality. The State believes that the municipality will have far more success establishing land use controls before rather than after lands are conveyed to private parties, and should be encouraged to do so.

Where the State does own land of this type outside the jurisdiction of a municipality, prospective disposal areas are carefully evaluated to determine whether the location is part of a desirable pattern of community growth and whether public services can be extended to the area with reasonable efficiency. In making this determination, the State works closely with nearby communities and with the Department of Community and Regional Planning. When, as a result of these considerations, the State decides to dispose of the land, the method chosen is sale by public auction followed by over-the-counter offerings of remaining tracts. The details of the sale are tailored to favor the individual home builder. Before sale lots are (1) subdivided into a size that is adequate but not excessive for on-site water and sewer; (2) provided with developed access and power (though arrangements with the company serving the area); and (3) zoned for single family or duplex residential purposes. The size of the lot, together with the residential zoning, discourages speculative purchasers and help keep bid prices within reach of the home builder.

Case 2

The commercial or industrial developer who needs a site for an immediate construction project. This case is exemplified by the Collier Chemical Company in Kenai or the Teamsters' Buildings in Anchorage, both of which are built on State leaseholds. Generally, the commercial or industrial company has a particular site in mind and very exacting locational requirements, such as accessibility to deep water or a central location in a community. Because cash flow is a primary consideration, the company would like to minimize its initial investment and is strongly interested in gaining tax benefits through its method of tenure.

State interests. The State has only a few sites that meet the exacting requirements of a commercial or industrial developer. Since the State sees development as being beneficial to the economy and to the welfare of the citizens of Alaska, it is important to State interests that the few prime sites available be well used, and not be conveyed to a party who might hold the lands for speculative profit.

The land is highly valuable, and the developer is well able to pay a fair price for the land. The State also has an obligation not to undercut private owners of competitive sites. For these reasons, the State sees a public interest in asking market value for the use of the land.

The State is also interested in environmental quality and wants sufficient control over the design of a project to establish environmental protection measures. The high public interest and considerable potential public revenue associated with these key sites, justifies the expenditure that may be necessary for adequate administration.

Disposal methods. As in the previous case, commercial and industrial development is generally located in a community expansion area. It is appropriate that the responsibility and revenue for disposal of such lands belong to the municipality, since the municipality will have to bear much of the cost of providing public services for the development as well as for the population growth that the added employment will generate. Thus, the State classifies most of this land for selection by the municipality. The State interest in the quality of use of these key parcels is protected by requiring adequate municipal planning, zoning, and subdivision regulation as a condition to conveyance.

In the few cases where the State retains this type of land, and handles disposal directly, the disposal method chosen is a lease under a development plan contract. This approach has been used successfully in similar situations in the past, for example, Collier Chemical Company. Under a development plan contract, bidders submit development plans and schedules which become part of the terms of the lease for successful bidders.

The lease has a major advantage for the developer by minimizing capital investment in land. Since lease payments are a deductable business expense and since improvements on leased land can be depreciated over the term of the lease, the company gets a tax break. Leasing enables the State to establish desired land use controls and to receive fair value for the use of the property. In approving the development plan and schedule, and other terms of the lease, the State has an opportunity to negotiate with the company to secure environmental protection measures which may be necessary.

The company's obligation to meet annual lease payments together with the development schedule included in the terms of the lease help ensure that the State's prime land will be used productively.

Case 3

The individual who wants a recreation cabin site on waterfront land within a half day's travel from a major community. This person wants to build a summer cabin in a good recreation location, somewhere within a half day's drive or flight from the community where he lives. He wants his site to have some special recreational amenity, preferably water frontage, but a good view or a streamside site are also attractive. He needs to be able to reach his site easily, at least in the summer. If road building is necessary, he would prefer to share the costs of a public road construction project, rather than go through the hassle of lining up his neighbors and arranging for the construction himself. At any rate, the latter approach would not be feasible for more than a mile or so.

Generally, his cabin involves a significant cash investment. Since he works during the week, he has little time for a do-it-yourself project. Perhaps he will handle part of the construction himself, but he will purchase his building materials. He is definitely looking for a marketable title and, therefore, for a surveyed lot.

He is worried about vandalism and would prefer a few neighbors, but wants them far enough away from his cabin so he cannot see them. A site of two to three acres is adequate to his needs, assuming the surrounding area is laid out to include public open space available for general recreational purposes.

State interests. Most of the State lands of this type have been selected for the mental health trust, and must be managed to maximize revenues for this purpose. However, the State does have a limited supply of general grant lands of this type.

The State wants to plan these prime recreation locations carefully, especially the waterfront areas, to preserve public access to fishing lakes and key recreation sites. But, through detailed small area planning, the State identifies some areas that could be used by private parties. In fact, some argue that the mixture of public and private recreation lands enhances both forms of land use.

These lands have significant real estate value for the general public, and planning, surveying, and access development is costly. Furthermore, the prospective buyers are not hardship cases. Therefore, the State decides that it is in the public interest to charge fair market value.

Because these are scarce and desirable tracts, the State fears they may be acquired by speculators rather than users. The State has a constitutional mandate to choose a mode of conveyance that will favor the users as far as possible.

The State also wants to discourage the conversion of recreation cabins to year-round dwellings, since it does not want the public

State interests. The State has only a few sites that meet the exacting requirements of a commercial or industrial developer. Since the State sees development as being beneficial to the economy and to the welfare of the citizens of Alaska, it is important to State interests that the few prime sites available be well used, and not be conveyed to a party who might hold the lands for speculative profit.

The land is highly valuable, and the developer is well able to pay a fair price for the land. The State also has an obligation not to undercut private owners of competitive sites. For these reasons, the State sees a public interest in asking market value for the use of the land.

The State is also interested in environmental quality and wants sufficient control over the design of a project to establish environmental protection measures. The high public interest and considerable potential public revenue associated with these key sites, justifies the expenditure that may be necessary for adequate administration.

Disposal methods. As in the previous case, commercial and industrial development is generally located in a community expansion area. It is appropriate that the responsibility and revenue for disposal of such lands belong to the municipality, since the municipality will have to bear much of the cost of providing public services for the development as well as for the population growth that the added employment will generate. Thus, the State classifies most of this land for selection by the municipality. The State interest in the quality of use of these key parcels is protected by requiring adequate municipal planning, zoning, and subdivision regulation as a condition to conveyance.

In the few cases where the State retains this type of land, and handles disposal directly, the disposal method chosen is a lease under a development plan contract. This approach has been used successfully in similar situations in the past, for example, Collier Chemical Company. Under a development plan contract, bidders submit development plans and schedules which become part of the terms of the lease for successful bidders.

The lease has a major advantage for the developer by minimizing capital investment in land. Since lease payments are a deductable business expense and since improvements on leased land can be depreciated over the term of the lease, the company gets a tax break. Leasing enables the State to establish desired land use controls and to receive fair value for the use of the property. In approving the development plan and schedule, and other terms of the lease, the State has an opportunity to negotiate with the company to secure environmental protection measures which may be necessary.

The company's obligation to meet annual lease payments together with the development schedule included in the terms of the lease help ensure that the State's prime land will be used productively.

to have to shoulder the costs of elementary schools serving small isolated populations.

Disposal method. The State obtains topographic maps and other basic information about the land and prepares a detailed land use plan. In developing the plan, sites for lots are selected so that each will have some special recreation amenity, be it a good view or accessibility to a lake or stream. Areas for public recreation use are interwoven with areas for private acquisition, and particular care is taken to reserve campsites at lake outlets and intakes and public easements along the waterfront. Where the property is near the main road system, a summer road providing access to both public and private property is planned and developed. The lots are surveyed, roads are constructed, and arrangements are made with the Department of Highways for summer, but not winter, road maintenance.

There is a debate within the State administration about how to dispose of the land. It is generally agreed that the State should charge fair market value, that the offering should be limited to one lot per family unit and that the State should zone the property for recreational cabin use before the lots are offered to the public. Some think that a lease is the most effective method of putting the land into the hands of the users, but others point out that lease offerings are often left untaken at public auctions. Genuine users are few and far between and crop up gradually over time, rather than in a bunch at an auction.

It is finally decided that the most effective and flexible method of meeting both public and private objectives is to offer long-term leasehold interests, first at an auction and then to make remaining parcels available through an over-the-counter lease offering. Over time, the State expects that it will find enough parties who really want an attractive cabin site to pay off the costs of subdivision and access road development and, eventually, to compensate the State for the value of the use of the property. An additional reason for this approach is that the lease gives the State some future option of converting key recreation areas to public use as needed in the unforeseeable future.

Case 4

The farmer or agri-business wanting agricultural land for commercial agricultural purposes. This individual ranges from the small farmer who wants to make his living by farming to agri-businesses that may use a small quantity of land in combination with substantial capital improvements, to the barley farmer who must cultivate several thousand acres for an economically successful venture. Their common denominator is that they want to use land to produce food products and to do so at a profit. Essentially, they are businessmen for whom land is one of the factors of production.

Some of these farmers, though they are sincere in their wish to farm at present, see one of the long-term benefits of farming as being able to

subdivide and sell their property and reap the benefits of land value increases.

Their land requirements in terms of acreage vary widely, depending on the nature of their venture. A successful potato farm may use 40 acres, whereas a barley farm may require 2,000. Locational requirements also vary, since some regions are better for some types of agriculture than others. Access to the regional transportation system is vital for all.

All seek to minimize their investment in land, though some forms of farming with high productivity per acre are better able to tolerate high land prices and taxes than others. Barley farming, for example, probably could not survive under the high land prices in the Matanuska-Susitna Valley.

State interests. The State has made a policy decision to use part of its land base to encourage viable agriculture. There is a widespread belief that agriculture is a valuable, though minor sector of the economy, and a feeling generally that the citizens of Alaska would be poorer without local farming.

With this identified public interest in preserving and developing agriculture, the State is willing to dispose of agricultural land at below market values if this is necessary to encourage successful farming. But the State is very concerned that, in doing so, they put the land into the hands of true farmers. The State has had some bad experience with people who have used the "foot-in-the-door" technique to acquire rights to land under one set of conditions and then exerted pressure to change the conditions. In particular, previous State agricultural leasing programs have been abused in this manner.

Disposal methods. The State decides that it has a responsibility to the public to make sure that people who receive prime agricultural land have the necessary qualifications for successful farming. To this end, the State developes criteria and standards for screening applicants for agricultural land, including prior training and/or experience, and possession of necessary working capital. Applicants for agricultural land are selected on the basis of their qualifications as farmers, rather than by lottery or competitive bid. A blue ribbon commission of agricultural experts from the University, experienced farmers, and Soil Conservation Service personnel is established to make the selection.

To elicit applications, the State announces that it will sell agricultural development rights only at appraised market value to qualified applicants. Sale of limited rights means that market value and, hence, sale price is very low compared to value for full development rights.

Applicants must qualify by the standards of the screening commission and submit an acceptable farm development plan and schedule. Tract sizes are then tailored to fit the requirements of individual

applicants. The sale contract incorporates the farm development plan and schedule as part of the terms of the sale. The contract also specifies that the land reverts to the State should it be used for other than agricultural purposes.

Case 5

The individual who wants agricultural land primarily for residential or recreational purposes, rather than for commercial agriculture. This form of land demand is not easily represented by any one individual. Instead, there are several different types of people in this group. Some are retired persons who can afford to live away from a center of employment and who would like to have acreage to cultivate, more as an avocation than as a source of subsistence or income. Others are families whose wage earner works seasonally or intermittently at a remote site. He may be a construction worker, a military employee stationed at a remote site, or he may work on an oil rig. Since his commuting from home to job is infrequent, he is less troubled by a long commute than the person who commutes daily. Others are people whose version of recreation is more agricultural than water-related. They would like their weekend or summer home to be a place where they can keep horses, grow vegetables or mow a meadow. Still, others are people who want a "subsistence farm". They want to obtain part of what they eat through their own efforts, and have the cash to be able to afford to do so.

Most of these people find that 5 to 10 acres are actually enough for their purposes, though many of them think in terms of larger acreages, more for the satisfaction of ownership than for actual use. Most do not need to be within daily committing distance of employment centers but they do need access, often in both the winter and summer. Here again, if road construction is necessary for access, these people would find it less costly and more convenient to participate in the cost of a public project, than to try to gain an agreement of property owners along the right-of-way to develop their own road.

Most want agricultural land, but large units of level agricultural land are not essential. In fact, for some, a rolling or hillside location makes their site more attractive.

Members of this group are likely to have somewhat erratic sources of income. Their lives are generally less stable and predictable than regular commuters, and many would run into trouble if they were required to put up a structure by a given date as a condition of ownership.

Title to land is important to this group. They identify with the homesteading ethic, and ownership is a major part of their satisfaction with their property.

State interests. The State identifies several serious problems in accommodating the wishes of this type of individual. First, since many of these people will be building year-round residences in remote areas, the State is concerned that the public will be saddled with the extreme cost of providing schools wherever more than eight

children are located. If recipients of State lands subdivide their property, then the public costs of schools and other services to the remote area will be greater.

Secondly, there is a legislative policy that agricultural lands be devoted to agricultural purposes. Though many of these people seek agricultural land, it is dubious that their purpose is agricultural in the sense of developing that sector of the State's economy.

On the other hand, the State sees the land needs of these part-time or subsistence farmers as being a legitimate prospective use of State lands, and decides to accommodate their interests wherever it can be done without undue harm to the public interest.

Disposal methods. The State decides to dispose of some lands for this purpose along or near existing roads in areas that are already served by a rural school bus system. Outside of existing school bus routes, the State decides to limit disposal for this purpose to summer recreational use. They feel that it is possible to enforce the summer recreational restriction by locating in areas that are served by summer roads only and developing an agreement with the local government and the Department of Highways to maintain this policy. Zoning before disposal by either the State or the local municipality will reenforce the distinction between areas for summer recreational use and year-round residential use. It is doubtful, however, that zoning will be very effective in this regard unless it is coordinated with the highway maintenance program.

A further criterion in selecting lands for this form of disposal is to avoid large blocks of prime agricultural land, but, instead, to chose lands with lesser or scattered agricultural values. This approach will reserve the State's prime agricultural lands for commercial agriculture.

Once the location is identified, topographic maps are prepared and lots are carefully planned and subdivided to provide access, some agricultural acreage and, if possible, a view from each property.

In selecting the method of conveyance, the State considers home-siting, but decides against this method because it is felt that the prospective purchasers need more flexibility in the timing of their development than is allowable under the Homesite Law. Retirees, for example, may want to acquire their land sometime before they actually retire and build and live on it. Further, the lottery system in the Homesite Law makes it impossible for an individual who has a strong preference for a particular site to assert his preference by out-bidding others.

Instead, the State decides to sell lots of five acres at auction and to offer remaining unsold property-over-the-counter. Speculative acquisition for subdivision purposes will be discouraged by establishing residential zoning before the sale and by including a

covenant in the sales contract prohibiting subdivision and limiting use to accord with the regulations of zoning.

Case 6

The individual who wants an opportunity to live in a remote area. This person's primary objective is the experience of living in isolation in the Alaska wilderness. He is typified by some of the people who filed for land north of Talkeetna under the open-to-entry program, but who expressed dissatisfaction with the program because other people filed next to them. Typically, this person's wilderness experience is not a lifetime project, but a matter of "dropping out" for a year or more. Since he is removing himself from the economic mainstream, the cash resources which he can invest in land and structure are limited.

He respects the integrity of the land and appreciates the historic Eskimo concept that land is for all to use and cannot be divided up into special ownerships. Still, he wants to keep his neighbors at a considerable distance and he needs enough surrounding woodland to supply himself with firewood.

State interests. The State recognizes that, though this individual represents a very small segment of its citizens, he is a legitimate potential user of State lands. Unlike the other types of land users, this individual's needs are not as well met by private lands as by State lands. Private lands are more accessible, costly, and give our individual little guarantee of isolation. Therefore, perhaps the State has a special obligation to accommodate him. Further, the State sees this wilderness buff as a potential user of lands that are so isolated and inaccessible that they will have little use to most citizens. Thus, allowing this individual to use State lands is a way of extending the accessibility and usability of State lands. Cabins and trails in remote areas add to the safety and therefore the accessibility of wilderness areas.

On the other hand, the State does not want to commit land to a few individuals in a way that will be costly to the taxpayer. The State sees little public interest in assuming the considerable expense of surveying remote isolated tracts or of providing schools for small settlements in remote locations. Land appraisal in such areas is costly and uncertain because of the absence of an active market.

Disposal method. The State decides that the best approach to meet the public and private interests in this case would be to retain the land in public ownership and simply give the individual a permit to build and occupy a cabin for a number of years. He would acquire no ownership rights; his permit would not be assignable; and his cabin would be public property to be used by the next permittee. This approach is in keeping with traditional Alaska backcountry views of land and cabin rights.

The cabin location would not be staked or surveyed. Instead, the permit would be tied to a cabin location identified by a dot on an aerial photo. The State would identify a large remote area within which widely separated cabin site locations could be nominated by the prospective permittee. Through regulations, the State would establish certain ground rules for granting a permit, for example:

1. No cabin within a quarter mile of another.

2. Trails, but no roads to the cabin site.

3. Minimal standards for fire safety in cabin construction.

4. Renewable permit granted for a period of 10 years, with a requirement that the State must give the permittee 3 years' notice if it does not intend to renew the permit at the end of its term.

5. Permit is not assignable. If permit is terminated, cabin reverts to State and goes with the land. However, if the State decides to reissue the permit, the prior permittee has the right to nominate his successor and his nominee has a preference right to the permit, assuming he meets all other requirements.

6. Minimal annual permit fee, set in relation to administrative costs, not on the basis of land values.

7. Prospective permittee must attend a day's course at the Division of Lands, covering the concept of public ownership, fire safety, timber cutting to improve rather than harm the forest, etc.

Pros and Cons of Titles and Methods
of Disposal of Surface Interests in State Land
by
Gary Johnson
Alaska Department of Natural Resources, 1976

The first part of the following list will identify general pros and cons of various titles and rights to State land. The second part of this list will identify various pros and cons concerning methods of disposal. Although each of these subjects are very closely related, they are separated here for purposes of analysis. Any method of disposal might conceivably be used for conveying each land title or right listed below. The pros and cons have been determined in view of general public and State interests.

Part I

Titles and Rights

A. Fee Title

PROS	CONS
1. Few if any title questions or future complications	1. Opportunity for control over the use of land is lost (subject to local control such as zoning)
2. Allows highest and best economic use	2. Does not insure immediate use of the land
3. Simplifies land appraisal	3. Excludes public use of the surface
4. Puts land on the local tax roles	4. All surface development rights may be sold at a time and location that does not have optimum development of all rights
5. Gives private managers control over land for economic purposes	
6. Eliminates the responsibility of the State to pay local lien assessments	

7. Reduces the State's management responsibility (fire control)

8. Provides a land base and collateral for economic activity

9. An owner may take better care of the land because his misuse (erosion, dumping and vegetation removal) will subtract from the value when sold

B. Fee Title with real covenants

PROS

1. Controls the use of land without using police powers such as zoning

2.

CONS

1. The burden of proof is placed on the State rather than the land owner in questions of land use when hardship is shown

2. A real covenant will tend to evaporate over the years and no longer be enforceable

3. Very often a court will not enforce a real covenant on equitable grounds

4. Difficulty and cost involved in in administration and enforcement

5. May affect resale financing of the land and its value as collateral

6. Different State administration may interpret covenants differently

C. Defeasible Fee Simple

PROS

1. Strongly controls the use of land without using police powers such as zoning because the title reverts to the State if the condition is breached

CONS

1. Difficulty and cost involved in administration and enforcement

2. Will affect resale, financing and the value of the land as collateral

2. It is possible to clearly prove that breach has occured

3. It will tend to be permanent

4. Equitable conditions will rarely be used to annul conditions creating a defeasible fee

3. Breach of conditions need to be acted on immediately

4. Jurors tend to be reluctant to return adverse judgements to their fellow land owners

5. Conditions which are applicable at the time of conveyance may not be applicable at a future date

D. Title to an interest in land for a specific limited use (easement)

PROS

1. State retains ownership of the land while conveying the use interest

2. Retains other development rights in State ownership

3. Land is taxed only on the development rights transferred

4. Provides for lower priced land sales

5. Additional development rights may still be used

6. The interest may be sold, leased or mortgaged

7. Use of the land is controlled by virtue of trespass rather than zoning or covenant

CONS

1. A use interest title may not be well understood because many uses are not ordinarily conveyed in this way

2. Not as much collateral would associated with the land

3. Some administration and inspection is involved

4. Complicates land appraisal

E. Leasehold

PROS

1. Helps insure use of the land

2. Retains the land in State ownership

3. Provides a continuous State income

CONS

1. Requires substantial administration and management

2. Requires reappraisal every five years

4. Provides for the use of land at lower cost

5. Controls the use of the land through classification or covenant

3. Management costs may outweigh income to State

4. May tend to encourage misuse of the land (erosion, dumping, vegetation removal) because has no right to sell the land

5. Use may conflict with local zoning

6. Title to the land seems to be more desirable to most people

F. Non real property surface interests (leases, permits or resource sales that do not apply to fixed, permanent, or immovable things such as buildings and land)

PROS

1. Allows use of the land for grazing, shore fishery use, timber, material or water

2. Allows use of land or resources without conveying title to the land

3. Other uses cannot be excluded

CONS

1. People cannot be kept off the land if that is necessary to the user

Part II

Methods of Disposal

A. Auction

PROS

1. Fewer administrative procedures

2. Returns highest market revenue for the land

3. Promotes economic efficiency

4. Apportions the land fairly in economic terms

CONS

1. The auction method may bid land beyond its real value

2. Promotes speculative risk

3. State revenue from land is minor compared with other revenue sources

4. Tends to exclude low income people

5. Higher cost of land tends to encourage a more productive use of the land

5. Administrative costs can be fairly high

B. Negotiated

PROS

1. Reduces administrative costs associated with auction
2. Can make land available at a lower price
3. Depending on the objectives of the public administrators, tends to promote economic growth and reduce speculative risk

CONS

1. May place too much discretionary power in the hands of public administrators
2. Can create inconsistency in administrative decisions
3. Lower cost of land tends to increase the likelihood that the land will not be used for its most productive purpose
4. May favor certain classes of people
5. Returns lower revenue for the land

C. Lottery

PROS

1. Provides an opportunity for people of all levels of income or qualifications to obtain land
2. Distributes wealth

CONS

1. Does not promote economic efficiency
2. Places power in the hands of public administrators who may qualify applicants according to certain classes of people

D. Claim (Selected and filed on by individuals)

PROS

1. Reduces State costs of survey
2. Provides an opportunity for people of all levels of income or qualifications to obtain land

CONS

1. Creates ownership boundary problems
2. This is the poorest system in terms of orderly development and proper land management

3. Creates administrative problems

4. Tends to reduce revenue from land

Preference right

PROS	CONS
Protects the interests of an owner while providing opportunity for other buyers and higher land revenue if the preference right holder is limited to meeting high bid	1. Increases administration cost
	2. Increases discretionary power of public administrators
Protects the interests of someone who qualifies under the law if the preference right is negotiated	

Land Exchange

PROS	CONS
Allows the exchange of land that is more appropriate for public ownership for land that is more appropriate for private ownership.	1. Administrative time involved in negotiation
	2. Determination of value
Administrative tool to obtain land that the State couldn't otherwise obtain	3. Complexities involved in a two-way transaction
	4. Agreeing on a piece of ground

Municipal Land Selections

PROS	CONS
Assists local units of government with revenue	1. The land selection program is inequitable among the boroughs
Transfers land for local purposes in some case	2. Opportunity for control over use of land by the State is lost
Incentive to form a borough	3. Has not always been effective in getting borough formed
	4. Legal selection problems

5. Costs the State to maintain land management agreements

6. Many complex legal problems

H. Development Plan Required

PROS

1. Helps insure use of the land

2. Controls use of land while under contract or lease

3. Qualifies people and helps insure use the land according to State objectives

CONS

1. Requires substantial administration and inspection for compliance

2. May be inflexible in terms of changing conditions

3. May conflict with local plans or controls

4. Limits number of people who can qualify and buy

5. Discretionary power to Director may be abused

GJ:dfw

T R U S T L A N D S

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trust lands

Trust Lands

Introduction

Before Statehood, the Federal government granted certain lands to the Territory of Alaska for benefit of the University of Alaska (100,000 acres), the public school system (109,000 acres), and the mental health program (1,000,000 acres). The legislation which granted this acreage established its management in a constructive trust program with certain restrictions. At Statehood, these established trust responsibilities were conveyed to the State of Alaska. Currently, the Alaska Division of Lands (ADL) manages the trust lands for the respective trust boards.

Recently there has been considerable debate over trust land management. One group believes that trust lands should be considered the same for management purposes as any other State lands, and the trust boards should get a fixed percentage of State land revenues. Another course calls for turst land management to be separated from the ADL so the trust boards would be free to contract for land management services with private firms who may be more responsive to their revenue orientation. It is generally agreed that some changes are needed, and this underlines the importance of carefully considering the range of choices available.

The two papers in this section provide excellent background material for the trust land discussion. The first was written by Tom Meacham of the Attorney General's office for the Governor's Ad Hoc Advisory Committee on State Land Practices and Procedures. The second was prepared by land management consultant, Dale Tubbs, who was retained by the Board of Regents to study the University trust land ownership situation. The recommendations made by Tubbs are applicable, for the most part, to all of the trust lands, although his work was performed specifically for the University.

MEMORANDUM State of Alaska

TO: Members, Ad Hoc Land Advisory Panel

DATE: February 8, 1977

FILE NO:

TELEPHONE NO:

FROM: Thomas E. Meacham
Assistant Attorney General
Anchorage - AGO

SUBJECT: Brief Synopsis of School, University and Mental Health Trust Land Statutes

I have been requested by members of the panel to prepare an outline of the legal constraints presently placed upon lands conveyed from the federal government to the former Territory of Alaska, and later the State, for specific support of school, university and mental health programs. This outline will discuss each of the three land grant programs separately, though several of their aspects are similar. An extensive discussion of the legal precedents applicable to administration of these programs will not be attempted, though some significant legal point will be mentioned. Some of the material in this outline was abstracted from Alaska's School, University and Mental Health Lands, by Ronald L. McCowan, a 1975 legal intern with the Division of Lands.

I

UNIVERSITY LANDS

A. Federal Law. University lands were first granted to the Territory of Alaska by the Act of March 4, 1915, 48 U.S.C. Sec. 353, which states at Sec. 353:

> Reservation of lands for educational purposes; proceeds or income set aside; lands excluded. When the public lands of the Territory of Alaska are surveyed, under direction of the Government of the United States, sections numbered 16 and 36 in each township in said Territory shall be reserved for the sale or settlement for the support of common schools in the Territory of Alaska; in section 33 of each township in the Tanana Valley between parallel 64, 65 north latitude, and between the 145th and 152nd degrees west longitude (meridian of Greenwich) shall be reserved from sale or settlement for the support of a Territorial agricultural college and school of mines established by the legislature of Alaska

> upon the tracts granted in Section 354 of this title; provided, however, that if settlement with a view toward homestead entry has been made upon any part of the section reserved by . . . other lands may be designated and reserved thereof in the manner and reserved thereof in the manner and reserved in lieu thereof in the manner provided in sections 851 and 852 of Title 3; provided further, that the Territory may, by general law, provide for leasing said land in area not to exceed one section to any one person, association or corporation for not longer than ten years at any one time; and provided further, that the entire proceeds or income derived from said reserved lands are appropriated and set apart as separate and permanent funds in the Territorial treasury, to be invested and the income from which shall be expended only for exclusive use and benefit of the public schools of Alaska or of the agricultural college and school of mines, respectively, in such a manner as the Legislature of Alaska may by law direct. . . ."

Section 354 of the same act granted Section 6, T 1 South, R. 1 West, Section 31, T. 1 North, R. 1 West, Section 1, T. 1 South, R. 2 West, and Section 36, T. 1 North, R. Two West, Fairbanks Meridian, to the Territory of Alaska, under the express conditions that they ". . . shall be forever reserved and dedicated to use as a site for an agricultural college and school of mines; . . ."

It is clear from the quoted statute that the university lands granted by the federal government to the Territory were to be subject to lease only, and that the "entire proceeds or income derived" were to be appropriated as a permanent fund for the university under the direction of the territorial legislature; and as to the enumerated sections of land transferred by Section 354, they were to be used exclusively as the physical location of the university.

On January 21, 1929, another federal act was adopted which granted additional lands to the Territory of Alaska for university purposes. 48 U.S.C. Sec. 354(a) states:

Agricultural college and school of mines; additional grant of public lands; conditions and limitations. In addition to the provision made by Sections 353 and 354 of this title, for the use and benefit of the agricultural college and school of mines, there is granted to the Territory of Alaska for the exclusive use and benefit of the agricultural college and school of mines, one hundred thousand acres of vacant non-mineral surveyed unreserved public lands in the Territory of Alaska, to be selected, under the direction and subject to the approval of the Secretary of the Interior, by the Territory, and subject to the following conditions and limitations:

(a) the college and school provided for in this section shall forever remain under the exclusive control of the said Territory, and no part of the proceeds arising from the sale or disposal of any lands granted herein shall be used for the support of any denominational or sectarian college or school.

(b) It is declared that all lands granted to said Territory and especially transferred and confirmed to the said Territory and shall be by the said Territory held in trust, to be disposed of, in whole or in part, only in the manner herein provided, and for the objects specified in the granting provisions, and that the natural products and money proceeds of any of said lands shall be subject to the same trusts as the lands producing the same. Disposition of any of said lands or of any money or thing of value directly or indirectly derived therefrom or any object other than that for which such particular lands or the lands from which such money or thing of value shall be derived or granted or in any manner contrary to the provisions of this section shall be deemed a breach of trust.

(c) No mortgage or other encumbrance of said lands shall be valid in favor of any persons for any purpose or any circumstances whatsoever. Said lands shall not be sold or leased, in whole or in part, except to the highest bidder at public auction, notice of which public auction shall first have been duly given by advertisement, which shall set forth the nature, time, and place of the transaction to be had, with full description of the lands to be offered, published once each week for not less than ten successive weeks in a newspaper of general circulation, published regularly at the capital and in a newspaper of like circulation which shall then be regularly published nearest to the location of the land so offered; nor shall any sale or contract for the sale of any timber or natural product of such lands be made, save at the place, in the manner and after the notice is thus provided for sales and leases of the lands themselves; provided however, that nothing herein contained shall prevent said territory from leasing any of said lands referred to in this section for a term of five years or less without such advertisement herein required.

(d) All lands, leasehold, timber and other products of the land before being offered shall be appraised at their true value, and no sale or other disposal thereof shall be made for a consideration of less than a value so ascertained, nor, in the case of the sale of the land, less than a minimum price of $5 per acre . . .

(e) A fund shall be established in the Territorial treasury to carry out the purposes of this section, . . . the Territorial treasurer shall keep all such money invested in sale interest bearing securities . . . the income from said fund may and shall be used exclusively for the purposes of such agricultural and school of mines, providing that no portion of said income shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair or any building or buildings.

> (f) Every sale, lease, conveyance, or contract of or concerning any of the lands granted or confirmed or the use thereof of the natural products thereof, not made in substantial conformity with the provisions of this section, shall be null and void. It shall be the duty of the Attorney General of the United States to prosecute in the name of the United States and in its courts such proceedings at law or in equity as may from time to time be necessary to enforce the provisions thereof relative to the application and disposition of the said lands and the products thereof, and the funds derived therefrom.

This act, unlike the Act of 1915, permitted the sale of university lands received under it, provided that proper notice, appraisal and sale procedures were first used. Like the 1915 act, the 1929 act required the holding of all income derived from university lands or from products of university lands to be placed in trust for the support of the university, with only the income earned by that trust account available for expenditures to support the university.

According to figures compiled in 1975, university lands applied for by the Territory under the 1915 act, (which granted Sections 33 only) totalled 11,000.43 acres with 8,666.8 acres of that total patented to the Territory. Under the 1920 additional university land grant, application had been made for 99,303.3 acres and patent had been received for 99,414.5 acres, the difference in acreage being accounted for by correction of surveys after patent was received.

On July 7, 1958, the Alaska Statehood Act was passed, which stated in Section 6(k):

> Grants previously made to the Territory of Alaska are hereby confirmed and transferred to the State of Alaska upon its admission. Effective upon the admission of the State of Alaska into the Union, Section 1 of the Act of March 4, 1915 [the school and university lands act], as amended, . . . [is] repealed and all lands therein reserved under the provisions of Section 1 as of the date of this Act, shall, upon the admission of said

> state into the Union, shall be granted to such state for the purposes for which they were reserved; but such repeal shall not affect any outstanding lease, permit, license or contract issued under said section 1, as amended, where any rights or powers with respect to such lease, permit, license, or contract, shall not effect the disposition of the proceeds or income derive prior to such repeal from any lands reserved under said section 1, as amended, or derived thereafter, from any disposition of reserved lands or interest therein made prior to such repeal.

This grant to the State of the university lands "for the purposes for which they were reserved" is the grant under which the State of Alaska presently administers the university lands. It is important to note that the "purposes" for which the lands were first reserved were preserved by the Statehood Act, but the explicit conditions under which the Territory was required to manage the lands were not expressly continued into statehood, and were arguably repealed by repeal of the underlying act.

On September 19, 1966 Public Law 89-588, 80 Stat. 811, an act which repealed sections 3 through 7 of the 1929 University Land Grant Act (which include paragraphs (b) through (f) quoted previously). The purpose of this repeal was to give the State and the university more freedom in administering and disposing of lands granted by the 1929 act, without being constrained by the restrictive conditions imposed by the original act, a purpose which was previously achieved by Section 6(k) of the Statehood Act with regard to the 1915 university and school land grant act.

B. State Constitution and Statutes

Article VIII, Section 6 of the Alaska Constitution states:

> State public domain. Lands and interest therein, including submerged and tide lands, possessed or acquired by the state and not used or intended exclusively for governmental purposes, constitute the state public domain. The legislature shall provide for the selection of lands granted to the state by the United States and for the administration of the state public domain.

Article VII, Section 8 of the Alaska Constitution states:

> Leases. The legislature may provide for the leasing of, and the issuance of permits for exploration of, any part of the public domain or interest therein, subject to reasonable concurrent uses . . .

Article VIII, Section 9 of the Alaska Constitution states:

> Sales and Grants. Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sale procedures. All sales or grants shall contain such reservations to the State of all resources as shall be required by Congress or the State and shall provide for access to these resources . . .

Article VIII, Section 10 of the Alaska Constitution states:

> Public Notice. No disposal of leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

Thus, subject to any reservations prescribed by Congress, university lands are subject to lease and sale under procedures adopted in conformity with the Constitution.

Article VII, Section 2 of the Alaska Constitution states:

> The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

AS 38.05.365(16) defines "state lands" as follows:

> 'State lands' or 'lands' means all lands including shore, tide and submerged lands, or resources belonging to or acquired by the state.

AS 38.05.370(20) defines "university lands" as:

> 'University lands' means all Sections 33 reserved to the university under 38 Stat. 1214, as amended, 48 U.S.C. 353 and all lands granted to or reserved for the benefit of the university.

AS 38.05.020, concerning the authority and duties of the Commissioner of the Department of Natural Resources, contains the following provision:

> (a) The commissioner shall supervise the administration of the land division.

AS 38.35.035 concerning the powers and duties of the Director of the Division of Lands, contains the following provisions:

> (a) The director shall . . . (2) manage, inspect or control state lands and improvements on them belonging to the state and under the jurisdiction of the division . . .
>
> (4) prescribe application procedures and practices for the sale, lease or other disposition of available lands, resources, property, or interest in them; . . .
>
> (6) Under the conditions and limitations imposed by law and the commissioner, issue deeds, leases or other conveyances disposing of available lands, resources, property or any interests in them;
>
> (7) Have jurisdiction over state lands, except for those lands acquired by the Alaska World War II Veterans' Board and the Agricultural Loan Board . . .

Section 38.05.030, which is an exception to the general statutory provisions regarding the sale or lease of state lands, states as follows:

> (a) The sale, lease or other disposal of university lands shall be made by the commissioner in accordance with the provisions of this chapter. University lands may be exchanged for (1) state lands; (2) privately owned lands; (3) vacant, unappropriated and unreserved public lands; and (4) lands owned by a city, borough or other public entity. However, all lands exchanged for other university lands must have the same fair market value as the other university lands. No sale, lease, or other disposal of university lands may be made without the approval of the Board of Regents of the University of Alaska.

AS 14.40.350, regarding the authority of the University Board of Regents, states:

> Sec. 14.40.350. Board of Regents authorized to lease lands. The Board of Regents may execute leases for mining, agriculture, or other purposes to the lands granted for the benefit of an agricultural college and school of mines for Alaska by the Act of Congress approved March 4, 1915, for such time and at such rent or royalty as may seem just and as provided by law.

AS 14.40.360 states:

> Sec. 14.40.360. Board of Regents authorized to select and to sell or lease lands granted by Act of Congress. The Board of Regents may select the lands granted to Alaska by the Act of Congress approved January 21, 1929, and may sell or lease them and deposit the proceeds in the state treasury in conformity with that Act.

Pursuant to the statutes, regulations have been adopted providing for the sale or lease of state land, with appropriate provisions where university lands may be involved. It is evident that the state statutes have been interpreted to require management of the university lands, together with other state lands, by the Department of Natural Resources and the Division of Lands.

II

School Lands

A. Federal Statutes. The federal statute granting surveyed sections 16 and 36 to the Territory of Alaska (48 U.S.C. Sec. 353) has been previously quote with regard to university lands granted by the same act. That statute, as originally enacted in 1915, provided only for the lease of such lands, and did not specifically allow the Territory to sell school lands. Further, the income derived from the lease of school lands was to be appropriated for the permanent fund, and only the income earned by that fund was to be used for school purposes.

Pursuant to the school grant, by 1975 Alaska had applied for 110,905.2 acres of federal lands, and had received patent to 100,202.3 acres.

In 1958, the Alaska Statehood Act was adopted, and provided in Section 6(k), as previously quoted, that grants previously made to the Territory were to be confirmed and transferred to the State of Alaska upon its admission, to the Union, repealing the Act of March 4, 1915 and granting them to the State "for the purposes for which they were reserved".

B. State Constitution and Statutes. The State constitutional provisions regarding the State public domain and the sale and lease of State lands, quoted previously in the context of university lands, are equally applicable to school lands received by the State.

The state statutes at Title 38, pertaining to the duties of the Commissioner of Natural Resources and the Director of the Division of Lands, quoted in the context of the university lands, apply equally to the administration of school lands. In addition, other state statutes specifically concern school lands. AS 38.05.365(14) states:

> 'School lands' means those rectangular sections 16 and 36 within each township surveyed on or before January 3, 1959, and confirmed and transferred to the State of Alaska upon its admission under Section 6(k), Alaska Statehood Act, 72 Stat. 339, and any other lands designated solely for school revenues.

AS 35.05.030(e), pertaining to exceptions to the general sale and lease policy of the State, states:

> The sale, lease or other disposal of school land under the jurisdiction of the Department shall be made by the commissioner in accordance with the provisions of this chapter. However, disposal of school lands, under this subsection, other than disposal by lease for a term of years, shall be made only for sites for school facilities or for public park and public recreation purposes. School lands may be exchanged for (1) state lands; (2) vacant, unappropriated and unreserved public lands, and (3) lands owned by a city, borough or other public entity. In the case of unequal value, cash may be used to equalize land values. If the Department determines that it is in the best interest of the State to dispose of the school lands located in Sections 16 and 36 in an organized borough or city of any class,

the borough or city is authorized, and has preference for six months after notice, to acquire the land at the appraised value by purchase or exchange of land acceptable to the Department. No sale, lease, exchange or other disposal of school lands may be made without the approval of the State Board of Education. The State Board of Education shall act as a trustee of school lands. The Board may obtain private counsel or other professional assistance when necessary, to carry out its duties as a trustee.

AS 38.05.032 states:

SCHOOL LAND DISPOSITION PROCEDURES. (a) Before the sale, lease or other disposal of school land, the director shall

(1) cause the preparation of a development plan which adequately describes the manner in which the land will be developed or utilized; however, no development plan is required for an exchange of school land to a public entity;

(2) make notice under sec. 345 of this chapter of the proposed development plan, stating that a disposal of the land for such use is under consideration, and that interested persons may make comments and submit alternative proposals for development and use within 30 days of the last publication of notice; and

(3) notify municipalities as provided in sec. 305 of this chapter at the same time notice is published or posted under (2) of this subsection; no further notice to municipalities need be given at the time of disposal.

(b) In the case of school land to be disposed of within municipalities, no disposal may be made until the municipal planning authority has held a public hearing on development plans and applications relating to the land

> to be disposed of. The director shall make development plans and applications available to municipal planning authorities for this purpose. No disposition of land may be made sooner than three weeks after a hearing held under this subsection. No disposition of land may be made unless the development plan is approved by the municipal planning authority.
>
> AS 38.05.070(c) states:
>
> A lease may be issued for a period up to 55 years . . . However, a nonrenewable lease for school lands may be issued for a period not to exceed 99 years.

School lands have been subject to lease for a term longer than the ten-year term originally set by the federal law in 48 U.S.C. Sec. 353, and such lands have also been subject to disposal by sale. It is thus clear that the interpretation given Section 6(a) of the Alaska Statehood Act is that upon confirmation of the grants previously received by the Territory for school and university purposes, the federal statute (48 U.S.C. Section 353-354 was repealed in its entirety, and only the purposes of the original grants, and not the conditions limiting the disposal of the original grants remained to govern State administration of these lands after statehood.

III

MENTAL HEALTH LANDS

A. Federal Law. On July 28, 1956, Public Law 830 (70 Stat. 709, 48 U.S.C. Sec. 46-3), entitled "Authority of the Territory of Alaska in the Field of Mental Health", was enacted. Title 2 of that Act made certain special grants to the Territory of Alaska for support of the mental health program, including certain land grants contained in Section 202 of the Act, in the following language:

> (a) The Territory of Alaska is hereby granted and shall be entitled to select, within ten years from the effective date of this Act, not to exceed one million acres from the public lands of the United States and Alaska which are vacant, unappropriated, and unreserved at the time of their selection . . .

(b) The lands authorized to be selected by the Territory of Alaska by Subsection (a) of this section shall be selected in such manner as the laws of the Territory may provide, and in conformity with such regulations as the Secretary of the Interior may prescribe. The authority to make selections shall never be alienated or bargained away, in whole or in part, by the Territory. . . .

(c) All grants made or confirmed under this section shall include mineral deposits; providing, however, that mineral deposits in lands which on January 1, 1956 were subject to Public Land Order No. 82 of January 22, 1942, shall not be included.

(d) Following the selection of lands by the Territory pursuant to Subsection (b), but prior to the issuance of final patents, the Territory shall be authorized to lease and make conditional sales of selected lands.

(e) All lands granted to the Territory of Alaska under this section, together with the income therefrom and the proceeds from any dispositions thereof, shall be administered by the Territory of Alaska as a public trust and such proceeds and income shall be first applied to meet the necessary expenses of the mental health program of Alaska. Such lands, income and proceeds shall be managed and utilized in such a manner as the legislature of Alaska may provide. Such lands, together with any property acquired in exchange therefor or acquired out of the income or proceeds therefrom may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such a manner as the legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended or used by the Territory of Alaska. The authority of the Legislature of Alaska under this subsection shall be exercised in a manner compatible with the conditions and requirements imposed by other provisions of this act.

The Alaska Statehood Act at Section 6(k), quoted previously, confirmed this grant of lands to the State of Alaska. However, the 1956 Mental Health Act was not repealed by the Statehood Act, since at that time Alaska had approximately eight years remaining within which it was permitted to select lands under the Act. As of 1975, Alaska had selected 1,026,147.9 acres of land under its mental health grant, and had obtained patent to 787,532.8 acres. In addition, it had obtained tentative approval to 187,294.1 acres of mental health selections.

Lands selected and tentatively approved to the State under the Mental Health Act have also been selected by various Native Village corporations under the Alaska Native Claims Settlement Act. The Alaska Native Claims Appeal Board has ruled that those Native selections are not valid, since mental health lands did not "pass to" the State of Alaska pursuant to ANCSA, but were a previous grant prior to Statehood, and thus not subject to selection under ANCSA. It is expected that further Court proceedings may be anticipated to resolve this issue.

B. State Constitution and Statutes. The State constitutional provisions applicable to mental health lands, as part as the State public domain, have been previously quoted in the section discussing university lands. State statutory provisions concerning the authority of the Commissioner of Natural Resources and the Director of the Division of Lands, quoted previously, apply with equal force to the management of mental health lands, with some additions. AS 38.05.365(8) states:

> 'Mental Health Lands' means lands granted under Title II, Section 202, of Public Law 830, 84th Congress, 2nd Session, as heretofore or hereafter amended.

AS 38.05.035, regarding the powers and duties of the Director of the Division of Lands, states in subsection (a)(13) that the Director shall:

> select, administer and dispose of mental health lands for the support of the mental health program, except that no mental health lands may be disposed of without the approval of a board composed of the director of the Division of Mental Health, Chairman of the Mental Health Advisory Council, and the Commissioner of Revenue.

IV

COURT DECISIONS

There have been no Supreme Court decisions in Alaska regarding an interpretation of the trust status of school, university or mental health lands. A 1975 Alaska Supreme Court case had the opportunity to examine the specific deed restrictions imposed on university lands granted for the site of the University. U. of Alaska v. National Aircraft Leasing, Ltd., 536 P.2d 121 (1975). A 1964 opinion of the Attorney General, which has some persuasive effect but which does not have the force of law, determined that trust lands, after they are transferred to the State of Alaska, under the Alaska Statehood Act, were subject to the express proviso that they be used for the purpose for which they were originally reserved. A copy of this Opinion of the Attorney General is attached hereto.

State courts in other states have discussed the trust responsibilities of states regarding lands granted to them under the terms of a particular federal act, and have generally held that the administration of the lands must conform to the grant, and to the acceptance of that grant by the State. Magnolia Petroleum Co. v. Price, 206 P. 1033 (Okla. 1922); State Highway Commission v. State, 297 N.W. 194 (N.D. 1941); Application of Dasburg , 1133 P.2d 569 (N.M. 1941). This subject has also been discussed by the Supreme Court of the United States in Lassen v. Arizona, 385 U.S. 458, 17 L.Ed. 2d 515 (1967).

This brief discussion of applicable case law is not intended to be exhaustive or analytical, but merely to indicate that there is general case-law support for the position that the administration of school, university and mental health trust lands is a trust responsibility, and is governed to a degree by the language and conditions of the original statutory grant of lands. The extent to which such original grant still controls details of the methods and terms under which such lands may be leased or sold, however, is not discussed here, as it is a subject upon which there are no clear guidelines in Alaska at the present time.

TEM:dr

UNIVERSITY OF ALASKA TRUST LAND MANAGEMENT

by Dale Tubbs, Moening Grey and Associates
December, 1977

Recommended Proposal for Improved Management of University Trust Lands

Management of the University Trust Lands has been a role of the Alaska Division of Lands with little input from University of Alaska Board of Regents. The land management policies developed have been those derived for other state lands with little or no specific direction from the Board. The purpose of this proposal is to formulate policies and directives, define the Board's objectives for university land management, relieve itself of housekeeping tasks by delegating certain responsibilities to the University's administrative officers, and provide the Alaska Division of Lands with specific direction for university land management.

Implementation of the improved land management objectives will require some legislative action to maintain the trust and provide uniformity. The major emphasis will be placed on Board policy from which the Division of Lands will operate.

The proposals being considered are with the assumption the Division of Lands will continue to act as the Board's land management agent.

Recommended Board of Regent Procedural Changes

All transactions involving university land do not warrant full Board involvement. It is recommended the Board delegate to the President of the University of Alaska those transactions similarly delegated to the director of lands and

the Board retain for its action all transactions parallel to those of the Commissioner of Natural Resources. An exception to this delegated authority could be the approval of land classification orders.

The purpose of this change is to relieve the Board from having to consider land transactions with little or no adverse impact on the university lands. It will also speed the process for making lands and resources available to the public. A further modification is to have a committee within the Board provide the approvals comparable to those of the Commissioner. If the disposal request fits within the Board's policy and guidelines, little or no further Board involvement should be necessary.

In regard to the agency relationship with the Division of Lands, the Board is recommened to cancel or revise the existing Management Agreement[1/] entered into on October 12, 1960. The agreement was signed by Wm. R. Wood, then President of the University of Alaska, and Phil R. Holdsworth, then Commissioner of Natural Resources. This agreement has become out dated and the Board's new approach to land management needs to be discussed with the Division of Lands.

The implementation of a revised land management policy is suggested on several fronts. These include: legal research to basic questions involving the trust lands and their use; recommended legislative changes to benefit the trust lands; Board of Regent land management policy directives; and directives to the Division of Lands for land management action. Each are elaborated below.

Legal Research

Obtain legal opinion to determine:

1. If university lands are included in the term state lands as used throughout the text of AS 38. with special emphasis on As 38.05. 365(16).[2/]

2. If the University of Alaska is required to deposit the fair market rental value into the trust fund when it uses its own lands for university purposes.

3. If university lands can be staked under the mineral location laws (AS 38.05.185-.280)[3/] without providing a return to the trust fund.

4. If a lease that is being assigned can be reappraised to establish a new rental fee.

5. If gift, endowment and purchased lands are exempt from disposal procedures as established in AS 38. Also, determine the impact of AS 38.05.030(d)[4/] in regard to endowment lands.

6. If land management costs can be recovered from the trust fund and the applicability of making the funds available to the Division of Land by using a reimburseable services agreement.

7. If Chapter 138 1977 SLA[5] that repealed and re-enacted AS 38.05.085 and .105, violates the fair market return required for trust grant lands.

8. The extent to which the Board of Regents may delegate authority to the President of the University and/or staff members and meet the intent of AS 38.05.030(a)[6] Can a parallel be struck similarly to the Commissioner of Natural Resources and the Division of Lands Director.

Legislative Changes

Existing statutes were identified in the land management study having an effect on reducing the income that can be derived from university trust lands. The following revisions are recommended to benefit the income potential:

1. Revise AS 14.40.350 to conform with AS 14.40.360[7] to allow for disposal other than by lease only.

2. Revise AS 38.05.067, .069, and .321[8] to remove preference rights that limit competition when university lands are offered. This will offer the university land to a larger market.

3. Revise AS 38.05.315(a)[9] to exclude university lands from being included in state lands to be made available at less than market value to governmental entities.

4. Revise AS 38.05.315(b-d)[10/] to exclude university land from being made available to non-profit organizations at less than market value.

5. Revise AS 38.05.185[3/] to exclude university land from being available to mineral location by claim staking but make them available by lease for mineral development. Further, provide for land rental and a royalty for minerals removed.

6. Revise AS 38.05.365(16)[2/] definition of state land to exclude university land unless specifically included by name as used throughout AS 38.

New legislation passed in the 1977 session has brought about a major change in determining land rentals and limitations on the adjustment of rents. (AS 38.05.105)[5/] It is recommended the Board appoint a committee of two or three Regents to meet with representatives of the State Board of Education and the Mental Health Board to determine remedial action to the legislation. Advisors to such a meeting should include an investment counselor and an appraiser in addition to the attorney giving the opinion regarding the law.

Board of Regent Land Management Policies

Written Board of Regent land management policies will assist the land manager and the public. An established policy will also provide uniform treatment to like situations.

The following policies are recommended for adoption:

1. Revise the present policy on leasing land to provide for the sale of university land when it is offered for residential purposes. This policy can also apply to large parcels being offered under a residential development plan concept. The development sale concept would only become final if the land is in fact subdivided and provided with streets, sewer, water and other utilities.

   Included in a policy to sell could be lands dedicated to public use when the topography renders the site undevelopable by reasonable standards. Examples of such areas are swamp land included in state game refuges, rock out crop areas in state parks, and lands within watershed areas prohibiting development or marketable use. Sales in these instances would be an alternative to land exchanges. These sales should also have a reverter clause to return the land to the university if the public use is discontinued or abandon.

2. Provide rights-of-way without cost for development roads and utilities that enhance use and occupancy of university land. Such rights-of-way are limited to underground utilities, above ground utilities and roadways directly servicing the tract. In no instance is the easement to exceed 20 feet in width for utilities or 60 feet in width for roads. Variances to this policy must be submitted to the Board for their action.

3. Provide rights-of-way for other utilities and roads by lease or purchase agreement. Any such purchase agreement is to include a reverter clause to reconvey the right-of-way back to the university without cost

unless the adjacent lands have been sold.

4. Companion easements are required from adjacent property owners for those easements following common property boundaries. Easements granted for roads shall be for public use and have physical access to existing public ways or dedicated public access.

5. Gift, endowment and purchased lands are not subject to AS 38.05.030(a).

6. Provide materials disposed of under AS 38.05.110-.120 to governmental agencies at market value. The market value shall be supported by an appraisal.

7. Provide materials disposed of under AS 38.05.110-.120 to the private sector by competitive bidding only. No negotiated disposals are encouraged because of the limited monetary return vs the administrative cost to monitor the take and regroom the site. No free use permits will be authorized.

8. Negotiated timber sales are not encouraged and will not receive favorable consideration unless the sale results in cleaning up the area, salvaging damaged, dead, or logging waste timber.

9. Land appraisals shall take into account the commercial timber and material value included in the tract evaluation.

10. Land exchanges proposed to remove university land from the readily available market place will not receive favorable consideration from the Board.

11. Mineral development is encouraged on university land where minerals may occur. Mining is to be by lease only with compensation to the university based on an acreage rental and royalty return.

12. Agricultural development is encouraged for Class II and Class III soils when the Board determines it is in the best interest of the university.

13. Greater utilization of existing leases is encouraged by allowing subdividing for subleasing or assignment when the best interest of the university are served. Prior approval of the University is required before subdividing and the development must meet platting standards required by local government.

14. Requests to change the land use as allowed in a lease will require Board approval. Any changes, if granted, shall require a relinquishment of the lease and a re-offering by public auction. No preference right inures to the former lessee.

Division of Lands Directives

It is recommended the following directives be considered for instructing the

Division of Lands in the management of university land.

1. Submit all regulations affecting university land and resources proposed for public hearing to Board of Regent members and the President of the University for review and comment. The same applies to the final form of the proposed regulation prior to being submitted to the lieutenant governor for filing.

2. Policy directives affecting the availability or non-availability of university land or resources be reviewed and approved by the university prior to implementation.

3. The division devise a program of making recreation sites available by lease or permit within the Haines forest management area. A first draft proposal to be available for discussion within 120 days of this request.

4. The division provide the university land staff with a list of delinquent lease contracts to allow prospective assignees to acquire the lease and keep it active.

5. Complete the pending university land exchanges by December 31, 1978.

6. Discontinue the policy of offering university lands classified as agriculture for 10¢ per acre per year as authorized by the University

of Alaska letter dated June 25, 1963 and directed in your Division Order #69 dated October 7, 1963.

7. Provide the University Land Management office with appeal notices, hearing dates, and hearing officer decisions relating to University leases. Prior to making a final decision consultation is to be made with President of the University or his designee.

8. Complete the 100,000 acre land grant selections provided by the Act of 1929, P.L. 679. Submit the proposed selections to the President of the University for concurrance prior to finalizing the selection.

9. Provide the University Land Management office with all actions involving university land as spelled out in AS 38.05.305.[11/]

10. Discontinue offering or making available university lands to non-profit organization or governmental entities at less than market value.

11. Identify and propose land to be considered for exchange for the university lands located within the State Parks and Game Refuge Systems.

12. Provide for a 30 day concellation clause in all special land use permits issued under AS 38.05.330. Such permits shall be for

temporary use, and not have a damaging effect on the land.

13. Provide the University with proposed mineral closing orders and justification for taking the action. President approval will be required for such actions.

14. Budget for manpower, services and contractual money in an identifiable manner to earmark funds that will be spent for university land management.

15. Prepare a land disposal package for university land in the City of Valdez for a 1978 or 1979 offering.

16. Begin preparation of a land use plan for university land within the Willow capital site and present a progress report to University staff in October, 1978.

17. Prepare a report outlining the effect of Chapter 138, 1977 Session Laws of Alaska on existing leases with comments and suggested recommendations.

18. Prepare a report outlining management problems encountered by the Division of Lands in the management of University Trust Lands and discuss same with University staff and Board of Regent land committee.

H O M E S I T E S -
A S S O C I A T E D
P U B L I C C O S T S

homesites

CONTENTS

State Homesites - Associated Public Costs

Introduction

In 1977, the Alaska Legislature amended Title 38 of the Alaska Statutes by adding Chapter 8 which directed that 25,000 acres of State land be made available for homesites. The maximum size of the parcels to be granted to voting age Alaskans with at least 6 years residency was set at 5 acres. Title to the land can only be acquired after an applicant occupies the land for at least 21 months, constructs a habitable, permanent, single-family residence, and reimburses the State for survey and platting costs. Applicants for the limited number of parcels available each year in rotating judicial districts of the State will be chosen by lottery.

The bill requires that public services be available, that the area be zoned residential, that soils have sufficient drainage and be suited for on-site sewage disposal, and that choice of homesite lands avoid agricultural and mineralized lands and fish regeneration areas. Availability of services and the existence of land use guidance regulations implies that the homesite disposals should be near settled areas and within the boundaries of existing political subdivisions. Uncertainty concerning the ultimate conveyance of municipal land entitlements has caused many boroughs to resist State land disposals within their boundaries. In addition, the Legislature did not fund the program sufficiently to allow the provision of access. Where road construction is a municipal subdivision requirement, and State road funds are lacking, disposal of State homesites would require a waiver of existing local requirements.

The combination of these factors has directed homesite activity outside existing municipal boundaries. In the 4th judicial district where activity is centered for the first year of the program, the homesite offerings are scheduled in Delta, Tok, Rex, and Circle. In each case, the lands which have been surveyed for implementation of the program lie outside of the organized governmental boundaries. Therefore, the zoning required by the bill is the responsibility of the Alaska Division of Lands, for they are charged with land use regulation in the unorganized borough. Regulations have been drafted and public hearings produced a generally favorable response to these early State zoning efforts. Final publication and adoption of these regulations will be forthcoming.

Cost figures for disposing parcels of land in the unorganized but accessible and partially serviced portions of the State are not complete. Basic service estimates combined with early actual experience in the first four activity areas offer a glimpse of what these costs might be. An analysis of these figures, administrative costs, and required technical services must accompany the implementation of this bill in order to keep in perspective the financial requirements of State land disposal programs.

Administrative cost scenarios have been developed by the Department of Natural Resources. The manpower and publication costs were estimated for the provision of 300 to 3,000 homesites per year. Acreage limitations in the bill suggest that a total of 5,000 to 10,000 parcels could be conveyed. But in the first year only 188 parcels will be offered. So the high range costs in terms of the scope of the program are probably over-ambitious. But it is clear that in order to achieve an orderly homesite disposal program that can be responsible to rural area land requirements, additional staffing will be necessary. Appendix I outlines DNR's estimates of State administrative costs. It also indicates the approximate value of the lands that the State would dispose in such a program.

Technical services must also be considered in a land disposal program of this nature. The Division of Lands survey costs will average about $600 per lot if the sites are grouped in 20-50 parcel clusters, existing section corners are nearby and monumentation requirements are minimal. This is a bare bones estimate that will limit cadastral engineering efforts to a basic gridiron approach with little sensitivity for existing topography and natural features. An additional $200-400 per lot will be required to contract for soil analysis required by DEC in rural areas to insure on-site water and sewer compatibility.

The costs described so far are those required to make land available for development consonant with program requirements. Early entrymen will face immediate access problems. Rights-of-way will be surveyed and ownership retained by the State, but actual road development will be the responsibility of the new residents. State programs exist to aid these efforts. The primary source of funding will probably be the Local Service Roads and Trails Program which is administered by the Department of Transportation. Currently, these funds are available to communities within established transportation network development plans. The time period between application by a recognized entity and actual construction usually runs about three years. Bob Hainline who directs this program for DOT estimates that per mile costs using State equipment are approximately $75,000 and in those areas where local contractors are available the costs run as high as $125,000 per mile. These figures are for local collector road construction with a completed width of 16 feet. The costs of secondary road access from the primary road net to the subdivisions themselves are pegged much higher at $750,000 per mile. Yearly maintenance of local roads and trails is set at $1,500 per year. Secondary road maintenance is correspondingly more expensive.

There are other costs that must be recognized as well. School transportation costs vary from area to area. In Willow, these costs average $1.65 per mile while near Fairbanks these costs can run as high as $2.18 per mile. Average family size in Alaska exceeds 3 persons so the settlement of 188 parcels could mean an increase in the number of students traveling to school. The peripheral location of these homesite developments will probably require bussing of students. Other services that

are supported by State funding and revenue sharing are police enforcement, fire protection, and parks and recreation expenditures. The exact effect of the homesite disposals on these State programs will not be evident until experience demonstrates whether the availability of land encourages in-migration or a redistribution of local populations.

For purposes of study, an examination of the costs associated with the disposal of 68 tracts in the Tok area was undertaken. These estimates are approximate but should serve to provide a yardstick of those costs that can be expected as the program developes.

Technical services, which are eventually reimbursed by the entryman, ran around $600 per parcel in Tok. Survey costs were low because of existing work that had already been done in the area. Soil analysis costs were kept low too because DEC allowed ADL to utilize core samples and drill logs available from nearby private development. These opportunities and resulting economies will not always be present.

The Tok homesite parcels are bounded on three sides by existing roads. But, in order to develop the interior parcels in the tract, approximately 2.75 miles of collecter roads will be required. At a minimum cost of $75,000 per mile these roads would cost roughly $206,250. With local contractor's equipment being used rather than the State's, these costs will run closer to $343,750. We must remember that these are minimum roadways at best and further widening and surfacing would cost considerably more. So, in order to build the least expensive road at the low cost scenario, an expenditure of around $3,000 per parcel can be expected.

The Alaska Gateway REAA claims that sufficient space is available for the 68 assumed additional students. The cost to transport these students to the school at current rates runs about $15 a day because the Tok homesites are only a little under 3 miles from existing facilities. For a 180-day school year, school transportation costs would increase about $2,750.

State revenue sharing for fire protection is based on population. If we assume an average family size of three and substantial in-migration, the State would pay an increased allotment at $7.50 per capita which at the maximum would mean an additional $1,500 per year. A public water and/or sewer system requires too many assumptions to permit accurate price predictions. At first, such improvements would be unnecessary because lot size permits on site development. However, as development proceeds, these expenditures may be mandatory and should be recognized. Without hydrants, fire insurance costs are exorbitant, even with modern volunteer fire departments.

This summary of costs for the Tok disposal is, of course, sketchy. But it is easy to see that even when homesite disposal is close to developed areas, as required by the bill, and much of the existing service infrastructure has been established, the real costs to the State of Alaska

are high. Where settlement results in a new community with seven or more elementary school aged children and no school is within bussing distance, the State is obligated to provide a school. A minimal 2 classroom structure costs at least $500,000.

Appendix II gives development costs for a range of areas in Alaska. The costs may be reduced to three elements. First, there are the costs associated with making the land legally available for settlement. A second layer of expenditures result from building the roads and other necessary service facilities. Finally, we must recognize the recurring costs associated with providing services and annual maintenance.

These costs will vary from site to site. There are only 20 lots in the Rex disposal area but one way to the school house in Anderson is almost 7 miles. There are 42 parcels near Circle and they will require at least 2 miles of service road. Appendix II contains information about these disposal areas. Accurate record keeping and a joint information effort between State agencies will be required in order to keep track of the financial facts of land diposal programs. As these parcel offerings occur throughout the State, we can develop a meaningful picture of the costs of free land.

Enclosures (3)
1. Appendix I - Homesite Administrative Cost Estimates.
2. Appendix II - CRA estimates of public service costs in southcentral Alaska areas
3. Appendix III - Copy of bill authorizing state land to be made available as homesites.

I. Cost Estimates - Homesite Program

Administrative Costs

The estimated costs of the program are based on the following scenarios: The program, which would be set up on a statewide basis, must furnish homesite lands from existing patented or tentatively approved state lands. These lands would need to be field inspected for their homesite suitability and land planning reports prepared. After being approved by the Planning Section and/or the Land Use Planning Commission, the land would be classified. During this time, systems must be set up to qualify the applicants by checking the application background material against court recordings, title recordings, voter registrations, etc. Once this was accomplished, provisio for choosing recipients would be established. Following this prepara tion, actual management of the program would begin. This would inclu enforcement capability during the three-year residency period.

The following estimates of personnel and travel expenses are based upon the assumptions and the knowledge of time and costs involved in the initiation and management of the past Open-to-Entry Program.

Selections: This phase would require the services of a full time Land Management Officer IV (L.M.O.IV) and a Land Management Officer (L.M.O. II) and a Land Management Assistant I (L. M. A. I) to adequately supervise and coordinate the program on a state-wide basis. The services of a Cartographer II and two Planners would be required. District offices would need additional personnel for initial field examination in the category of an L.M.O. I plus budgetary monies for remote as well as close-in travel and per diem. Land planning reports instigated by thedistricts would need processi thereby necessitating additional classification workload and thus personnel.

Qualifying of Applicants: An adequate, though not necessarily stringent check of the applicant's legal qualification would be necessary requiring adding personnel to existing district's rosters, as well as personnel to set up and oversee the auctions and/or lotteries.

Enforcement of Management: Enforcement for compliance would require that field inspection be a continuing and time consuming item requiring coordination and administration work by people out of the District as well as headquarter offices.

District Office Expenses: The District offices would require two new positions and a substantial increase in travel funding. The estimates set forth below assume a minimum program of 100 and a maximum program of 1,000 homesites per District per year.

District Office Expenses

in Dollars/year

District	Personnel Salaries (a)	Regional Travel Costs			
		100 Units/District		1,000 Units Distric	
		Remote Areas(b)	Close-in Areas (c)	Remote Areas	Close-in Areas
Southeastern					
L.M.O. II	27,224	18,000	3,600	180,000	36,000
L.M.A. I	17,742				
Southcentral					
L.M.O. II	27,224	18,000	3,600	180,000	36,000
L.M.A. I	17,742				
Northcentral					
L.M.O. II	31,516	18,000	3,600	180,000	36,000
L.M.A. I	20,271				
TOTALS	141,719	54,000	10,800	540,000	108,000

(a) Employees' salaries include base salary plus State provided benefit costs.

(b) Remote area refers to any area which cannot readily be inspected, but requires a charter (boat or plane) to inspect. Known costs are transposed with emphasis on flying as the fastest means of verification of compliance. 10/25 inspections per day within a 100-mile radius of the district offices. If areas greater than 100 miles are opened, then inspection time/costs will increase in proportion.

(c) Close-in refers to areas available to highway, railbelt and nearby water access which can be reached with relative ease. After the fact costs are predicated on a monthly check basis, with between 25/50 inspections per day.

Headquarters Expenses: A staff of seven full-time employees to oversee selections, classifications, contracts, lotteries and servicing of the program would be needed in the Anchorage headquarters office.

Headquarters Expenses

in Dollars/year

Position Title	Salary	Travel Costs (a)	
		Remote	Close-in
1 L.M.O. IV	32,058	1,500	300
2 L.M.O. II	54,448	3,000	600
1 Carographer II	21,800	1,200	1,200
1 L.M.A. II	20,271		
2 Planners - 16	23,490		
- 18	27,224		
TOTAL EXPENSES	179,291	5,700	2,100

(a) Travel costs are limited to one trip for three headquarters personnel to District Offices to observe field work. The Cartographer would be expected to make several trips for record coordination purposes.

Advertising Costs: Three days public notice in a major paper would costs $250.00. Such a notice would have to be printed at least twice a year in a paper in each District with a total cots of $1,500.00.

Total Administrative Costs

in Dollars/year

	300 Homesites		3,000 Homesites	
	Remote	Close-In	Remote	Close-In
3 District Offices				
Salaries	141,719	141,719	141,719	141,719
Travel	54,000	10,800	540,000	108,000
Headquarters				
Salaries	179,291	179,291	179,291	179,291
Travel	5,700	2,100	5,700	2,100
Newspaper Costs	1,500	1,500	1,500	1,500
TOTAL COSTS	382,210	335,410	868,210	432,659

Value of State Public Land Given in the Program

Sales in the various districts indicate approximate values which can be used in estimate value lost if the State provides homesite land free rather than at the fair market value. Though great disparity exists between individual values for both remote and close-in properties, the median values have been used for this analysis. Land in remote areas has been valued at $400 to $500 an acre and land close in to settled areas valued at $2,000 to $2,500 an acre. All homesites are assumed to be of the 2-acre lot size.

Values of Homesite Lands

in Dollars/Year

District	100 Sites/District		1,000 Units/District	
	Remote	Close-in	Remote	Close-In
Southeastern	100,000	500,000	1,000,000	5,000,000
Southcentral	80,000	400,000	800,000	4,000,000
Northcentral	80,000	400,000	800,000	4,000,000
TOTAL COSTS	260,000	1,300,000	2,600,000	13,000,000

Summary

Summary of State Homesite Program Costs
(Land Value and Administration Expenses)a

In Dollars/Year

Site Processed Per Year	Remote Areas			Close to Settlement Areas		
	Land Value[d]	Admin	Total	Land Value[e]	Admin.	Tot
300[b]	260,000	382,210	642,210	1,300,000	335,410	1,635,
	2,600,000					
3,000[c]	2,600,000	868,210	3,468,210	13,000,000	432,659	13,432,

a. Does not include ancillary costs to the State for required service such as new schools, etc.

b. 100 sites per District for 3 districts.

c. Maximum number of sites - 1,000 per district for 3 districts.

d. Assumes a cost of $400 to $500 an acre for remote areas.

e. Assumes a cost of $2,000 to $2,500 an acre for close to settlement areas.

State Costs per Homesite Unit

in Dollars/Unit

Location	Per Year	Total Costs	Per Site[a]	Per Acre
Remote	300	642,210	2,140.70	1,070.35
Remote	3,000	3,468,210	1,156.07	578.04
Close-in	300	1,635,410	5,451.37	2,725.68
Close-in	3,000	13,432,659	4,475.55	2,237.77

a. A site is assumed to be 2 acres.

II PUBLIC COSTS - STATE LAND DISPOSALS

SOUTHCENTRAL

ITEM	COST
1. Roads	
DOT/PF:	$800,000/mi., Primary Paved $700,000/mi., Secondary Paved (Engineering & Construction, No ROW) $2200/mi., Maintenance (Secondary Unpaved)
LSR&T:	$110,000/mi., Contracted $65,000/mi., State $1500/mi., Maintenance (Revenue Sharing) (Gravel & ROW Provided by Municipality)
2. Schools	
Buildings	
Transportation	$1.65/mi., (Willow, Talkeetna) $1.55/mi., (Glacier View)
Teacher Salary	
3. Police	
$/Population	$12/capita, Revenue Sharing
4. Fire	
$/Population	$7.50/capita, Revenue Sharing
5. State Troopers	
	$60,000/man, Budgeted - Includes Equipment
6. Parks & Recreation	
	$5/capita, Revenue Sharing

7. Sewer

Construction $/ft.	$50-$60/ft Laterals, $100+/ft. collectors (Engineering and Construction) - Anchorage
Treatment Plant	$4 mill/plant, $800,000/68,000' Interceptor ... mill/57,000' Collector, 5,000-11,000 pop.
Average $/mo.	$100,000/yr., Maintenance

8. Water

Construction $/ft.	$50-65/ft. 12" Main + Service Lines + Hydrant (Engineering and Construction) - Anchorage
Treatment Plant	$180,000/16" Diameter Well + Treatment + Generator; 70,000 - 80,000 population served

9. Electricity

Construction $/ft.	$2500-3500/pole, 1st 165' to House free $1500-2500/lot Underground

10. Telephone

Lines #/ft.

TOK HOMESITES

68 lots

Roads

80' ROW: 22" @660'/" = 14520' secondary roads (2.75 mi.)

LSR&T: $110,000/mi. x $\frac{14,520}{5,280}$ = $302,500; Main $4125/yr.

State: $700,000/mi. x $\frac{14,520}{5,280}$ = $1,925,000; Main $6050/yr.

Sewer Lines

22" @660'/" = 14520' laterals

Laterals: $60/ft x 14,520' = $871,200

Service: $20/ft x 200' x 68 lots = $272,000

Assume collectors present, houses 200' from road

Water

Same as sewer + $1100/hydrant

Assume 6 hydrants: $1,149,800

Telephone

Electricity

No charges levied if under 325' from existing line.

School Transportation

2.8875 mi. one way = 11.55 mi/day = $14.90/day

For a school year of 180 days = $2681.91

Alaska Gateway REAA claims sufficient space available for additional students - no new construction would be needed.

Fire - State Revenue Sharing

Assume average family size of 3; 204 people - 7.50/capita = $1530/yr

PUBLIC COSTS - STATE LAND DISPOSALS

DELTA JUNCTION

ITEM	COST
1. Roads	
DOT/PF:	$800,000/mi., Primary Paved $700,000/mi., Secondary Paved (Engineering & Construction, No ROW) $2200/mi., Maintenance (Secondary Unpaved)
LSR&T:	$110,000/mi., Contracted $65,000/mi., State $1500/mi., Maintenance (Revenue Sharing) (Gravel & ROW Provided by Municipality)
2. Schools	
Transportation	$2.04/mi., $2.18/mi. (1978) - (Fairbanks), $1.98/mi. (Delta Greely REAA)
3. Police	
$/Population	$12/capita, Revenue Sharing
4. Fire	
$/Population	$7.50/capita, Revenue Sharing
5. State Troopers	$60,000/man, Budgeted - Includes Equipment
6. Parks & Recreation	$5/capita, Revenue Sharing

7. Sewer

Construction $/ft	$60/ft Laterals, $20/ft Service, $100-$150/ft Collector & Interceptor; (Fairbanks)
Average $/mo.	$2.00/1000 Gal., Average Cost (Fairbanks)

$800,000 - 70 Homes, Lagoon System (Nenana - PHS)

8. Water

Construction $/ft	$60/ft Laterals, $20/ft Service, $1100/Hydrant (Fairbanks)
Average $/mo.	$2.29/1000 Gal., Monthly Fee (Fairbanks)

$500,000 - 45 Homes, Central Distribution, (Nenana-PHS)

PUBLIC COSTS - STATE LAND DISPOSALS

COPPER RIVER

ITEM		COST
1.	Roads	
	DOT/PF:	$800,000/mi., Primary Paved $700,000/mi., Secondary Paved (Engineering & Construction, No ROW) $2200/mi., Maintenance (Secondary Unpaved)
	LSR&T:	$110,000/mi., Contracted $65,000/mi., State $1500/mi., Maintenance (Revenue Sharing) (Gravel & ROW Provided by Municipality)
2.	Schools	COPPER RIVER REAA
	Buildings	Portable Classroom - $78,000
	Transportation	$1.70/mi.
	Teacher Salary	$25,000 + 15% Benefits/yr.
		ALASKA GATEWAY REAA
	Buildings	Portable $50,000, ($111/sq.ft.) Permanent $200/sq.ft.
	Transportation	$1.29/mi.
	Teacher Salary	$23,000 + 25% Benefits/yr.
3.	Police	
	$/Population	
4.	Fire	
	$/Population	$7.50/capita, Revenue Sharing (Unincorporated also)

5. State Troopers

$60,000/man, Budgeted - Includes Equipment

6. Parks & Recreation

7. Sewer

8. Water

9. Electricity

Construction $/ft — 1st 325' + Pole + Transformer + Drop Line - Free
Estimated Value, $1000 (Copper Valley Electric)

10. Telephone

Lines #/ft. — 1¢/ft/Pr for lines to House
Copper Valley Telephone covers Costs up to 7 times monthly service charge

LAWS OF ALASKA

1977

Source | Chapter No.

SCS CSHB 2 (Resources) am S | 142

AN ACT

Authorizing state land to be made available as homesites.

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

* Section 1. PURPOSE OF ACT. The longstanding policy of the state, declared in the Constitution of the State of Alaska (art. VIII, sec. 1) and the Alaska Land Act (AS 38.05.350), has been to encourage the settlement of the state's land and the development of its resources by making them available for maximum use consistent with the public interest. In authorizing the classification of land for settlement as homesites, this Act is intended to further that policy explicitly, by recognizing that the immediate production of revenues to the state through the auction of land to the highest bidder, virtually the only method by which state land has been made available to the public for residential use, is secondary in importance to the primary, and ultimately more beneficial and productive, goal of providing land for Alaskans to settle at a cost reasonably within their means, and that the highest and best use of some land may clearly be for habitation.

* Sec. 2. AS 38 is amended by adding a new chapter to read:

CHAPTER 8. HOMESITES.

Sec. 38.08.010. CLASSIFICATION OF LAND FOR HOMESITE ENTRY. (a) The director shall classify, survey, and plat for homesite entry 25,000 acres of state land which is otherwise vacant, unappropriated and unreserved and is suitable for erection of residential dwellings to use as a permanent abode.

(b) Land classified as homesite entry land shall be divided into parcels not exceeding five acres in reasonably compact form, with boundaries conforming as nearly as practicable to natural geologic and topographic features.

(c) No land may be classified for homesite entry which

(1) lacks drainage sufficient for construction of residential dwellings;

(2) has soil which has been classified and interpreted as appropriate for agriculture in soil surveys conducted by the Soil Conservation Service of the United States Department of Agriculture;

(3) is known to be mineralized with commercially valuable minerals;

(4) is located where homesites would threaten fish regeneration;

(5) is located where existing services provided by the state and political subdivisions of the state would be inaccessible;

(6) lacks sufficient water for a residential dwelling used as a permanent abode; or

(7) is unsuitable for on-site sewage disposal, if other methods of sewage disposal are not feasible.

Sec. 38.08.020. OFFERING OF LAND FOR HOMESITE ENTRY. Following classification of land for homesite entry, offerings of homesite entry land shall be made on a rotating basis from among the four judicial districts of the state. The director shall publish notice of the availability of the land for at least three consecutive weeks through the electronic media and in at least three newspapers of general circulation in the state, at least one of which, if possible, shall be a newspaper of general circulation in the vicinity of the available land.

Sec. 38.08.030. APPLICATIONS FOR HOMESITE ENTRY; FEES. (a) To qualify for a homesite entry permit, an applicant shall

(1) at the time of application have attained the age of 18;

(2) submit proof acceptable to the commissioner that he is a resident of the state at the time of application, and that he has been a resident of the state for not less than six years immediately preceding the date his application was submitted, or that he has been a resident for 20 years cumulatively;

(3) agree to comply with the requirements for obtaining a patent to land set out under sec. 60 of this chapter.

(b) Fees for filing an application may not exceed $10.

Sec. 38.08.040. ISSUANCE OF ENTRY PERMIT. (a) An applicant meeting the qualifications for homesite entry under sec. 30 of this chapter shall be issued a revocable

permit to occupy and improve the homesite in order to qualify for issuance of patent as provided in this chapter. The application fee is the sole rent chargeable on the permit for its duration.

(b) If the number of applicants qualified for homesite entry exceeds the number of available homesites offered, or if several applicants apply and qualify for the same homesite, priority in award of an entry permit shall be accorded to that applicant showing proof of the longest residency in the state.

(c) The permit may not be assigned, conveyed or otherwise transferred, but rights under the permit may devolve by testate or intestate succession. An attempt to assign, convey, or to otherwise transfer the permit, is void and constitutes a substantial breach.

(d) An applicant may apply for more than one available homesite. No person holding a homesite patent may apply for a homesite entry permit, no person may simultaneously hold more than one homesite entry permit, and no person who is a member of the homesite entry permit holder's household may be issued a homesite entry permit while a member of the homesite entry permit holder's household.

Sec. 38.08.050. REVOCATION OF ENTRY PERMIT. (a) The entry permit may only be revoked for failure to erect a dwelling as required under sec. 60 of this chapter, or for other substantial breach of the terms and conditions of the homesite entry permit.

(b) Upon revocation and termination of a permit, improvements or chattels upon the homesite shall be managed, and subsequent issuance of a permit for entry on the homesite shall be conditioned, in the same manner as provided in AS 38.05.090 for removal or reversion of improvements upon termination of leases of state land.

Sec. 38.08.060. ISSUANCE OF PATENT. (a) A person who enters upon homesite entry land under a permit issued by the director shall be issued a patent to the land conveying an unencumbered title if that person

(1) occupies the land for a cumulative total of 21 months within the three-year period following issuance of the homesite entry permit, or five months with 20 years Alaskan cumulative residence;

(2) erects a habitable, permanent, single-family dwelling on the homesite, which meets all applicable state and local regulations, within three years of the date of issuance of the homesite entry permit; for the purposes of this paragraph, mobile homes are not considered to be permanent dwellings unless they are placed on a permanent foundation;

(3) reimburses the state for the survey and platting undertaken in accordance with this chapter; the director shall provide by regulation for installment payments of this reimbursement.

(b) Nothing in this chapter shall be construed to prohibit a person issued a homesite entry permit from residing in a temporary habitable dwelling on the homesite until revocation of the homesite entry permit.

(c) No person may be issued more than one patent during his lifetime, nor may any person who is a member of a patent holder's household be issued a patent while a member of the patent holder's household.

(d) If a dwelling is found to have been substantially completed under sec. 100 of this chapter, patent shall be issued upon completion of the dwelling, notwithstanding (a)(2) of this section.

Sec. 38.08.070. LAND LOCATED WITHIN MUNICIPALITIES. No state land which is located within the boundaries of an organized borough or city may be classified for homesite entry under this chapter until the proposed use of the land has been studied and approved jointly by the director and the local planning authority. Nothing in this section or AS 29.18.190 prevents the director from selecting and classifying for homesite entry land which would otherwise be available for borough or city selection under AS 29.18.-190. If classified for homesite entry, the land shall not be available for city or borough selection.

Sec. 38.08.080. REQUIRED ZONING. No state land which is located within the boundaries of a municipality which exercises planning and zoning authority under AS 29 may be offered by the director for homesite entry under this chapter until the land has been zoned by the governing body of the municipality for residential use only. No state land which is located within a municipality which does not exercise planning and zoning authority, or which is located in the unorganized borough, may be offered by the director for homesite entry under this chapter unless the division of lands has adopted zoning regulations to restrict the use of the land to residential purposes.

Sec. 38.08.090. DISCLAIMER OF INTENT TO PROVIDE SERVICES. Nothing in this chapter obligates the state to provide services to land which is the subject of homesite entry and patent.

Sec. 38.08.100. SUBSTANTIAL COMPLETION OF DWELLING. An entry permit may not be revoked for failure to erect a dwelling in the time required under sec. 60(a)(2) of this chapter if the director finds that erection of the dwelling has been substantially completed and progress toward completion is being made at the expiration of the time required.

Sec. 38.08.110. REGULATIONS. The commissioner shall adopt regulations in accordance with AS 44.62.180 - 44.62.-290 to carry out the purposes of this chapter.

Sec. 38.08.120. DEFINITIONS. In this chapter

(1) "commissioner" means the commissioner of natural resources;

(2) "habitable dwelling" means a dwelling of a permanent nature, together with fixtures and facilities, including sanitary facilities, required or customary in the vicinity of the land made available for homesite entry;

(3) "resident" means a person who is not claiming residence in another state and shows by all attending circumstances that his intent is to make this state his permanent residence.

* Sec. 3. AS 29.33.090 is amended by adding a new subsection to read:

(c) The assembly shall regulate and restrict the use of state land within the borough which is vacant, unappropriated and unreserved and which is found suitable for classification and disposal for homesite entry under AS 38.08.010. Compliance with the provisions of this subsection is a prerequisite to issuance of homesite entry permits for land within the borough.

* Sec. 4. AS 29.13.100 is amended by adding a new paragraph to read:

(37) AS 29.33.090(c) (zoning of state land for homesite entry)

* Sec. 5. No land may be classified and made available for homesite entry under AS 38.08.010 - 38.08.120 within any portion of the new capital site established under AS 44.06 before July 1, 1982.

Approved by the Governor: June 18, 1977
Actual Effective Date: September 16, 1977

L E A S I N G :

A G A P I N M E T H O D O L O G Y

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leasing

Leasing: A Gap In Disposal Methodology

Introduction

Leasing was selected as an area for special focus of staff study. News stories and interviews with opinion leaders indicated that the new leasing statute for State land passed in the 1977 session deserved a closer examiniation. It was a featured topic of the Workshop, and the proceedings indicate the variety of comments received on the topic of leasing.

On one hand, an increasing number of people believe that the State should make more extensive use of leases to satisfy the demands for use of State land while retaining underlying ownership for the benefit of the general public. On the other hand, there is considerable recognition that leasing requires sophisticated techniques and knowledgeable management personnel in order to be successfully implemented.

This section of the report contains some of the background information that the Commission consulted in forming their recommendations. The first paper is a copy of the current statute. It is followed by an excerpt from the final report of the Governor's Ad Hoc Advisory Committee on State Land Practices and Procedures. The third paper was prepared by the Commission staff and was circulated among the participants in the Workshop for background and discussion purposes. The final item is a news paper clipping describing the filing of a lawsuit to test the validity of the new leasing statute as it pertains to some of the trust lands and the response of some current leaseholders.

Sec. 38.05.085. TERM OF LEASE. (a) The lease shall provide that

(1) for the initial 25-year period of the lease, the lessee shall pay the state a fixed base annual rent to be agreed upon by the parties in compliance with the provisions of this chapter;

(2) the fixed base annual rent to be paid by the lessee shall be readjusted when the initial 25-year period of the lease has expired and, thereafter, every 10 years; and

(3) the readjusted annual rent may not exceed 10 per cent of the value of the property as determined in (b) of this section or 50 per cent more than the amount paid each year during the initial period or the preceding 10-year period, whichever is lower.

(b) When it becomes necessary to determine the fair market value of property as required by (a) of this section, the lessee shall appoint an M.A.I. appraiser and the state shall appoint an M.A.I. appraiser. The two appraisers so appointed shall, within a specified period of time agreed upon by the parties, make their appraisals of the property in question. If the two appraisers agree upon the fair market value, the determination is absolutely binding on the parties. In the event the two appraisers are unable to agree, they shall together appoint a third M.A.I. appraiser who shall then make his appraisal of the property in question. When the third appraisal is completed, the two of the three appraisals which are nearest each other in their determination of the fair market value shall be averaged and the resultant sum shall be the fair market value of the matter in question and absolutely binding on the parties. All costs incurred in making the appraisals provided for in this subsection shall be borne by the state and the lessee equally.

(c) The lessee shall make advance payments of the annual rent or portion of it as the director, with the approval of the commissioner, may require.

(d) A preference right lessee of grazing or forest land may follow the payment schedule established in his cancelled federal lease or grazing permit if he so desires.

(e) Notice of all actions by the department affecting the rights of a lease or lessee shall be given to the lessee.

(f) A violation of a provision of this chapter or of a term or provision of a lease subjects the lessee to appropriate legal action, including, but not limited to, a forfeiture of the lease.

(g) In this section,

(1) "annual rent" means the amount of rent paid annually determined by multiplying the fair market value by the rental rate computed at the time of the initial 25-year

period of the lease or of each subsequent 10-year period of the lease;

(2) "rental rate" means the rate, expressed as a percentage of fair market value, which a comparable class of privately owned property would bring in the open market with the same conditions of lease as offered by the state.

* Sec. 10. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.103. RIGHTS OF HOLDER OF SECURITY INTEREST. (a) If there is a breach or default of a term of a lease or of the provisions of this chapter relating to a lease, the division shall provide written notice of the breach or default by personal service or by registered or certified mail to the lessee and to any holder of record having a security interest in the leased property. The notice shall also make demand upon the lessee to cure or remedy the breach or default within 60 days from the date of receipt of the notice and demand. If a lessee fails to cure or remedy the breach or default within 60 days, or within the additional time which the division may allow for good cause, the state may, subject to (b) of this section, exercise any right which it may have at law or as set out in the lease.

(b) If a lessee fails to cure or remedy a breach or default within the time allowed in (a) of this section, a holder of a security interest who has received notice under (a) of this section may cure or remedy the breach or default if the breach or default can be cured by the payment of money or, if this cannot be done, by performing or undertaking in writing to perform the terms, covenants, restrictions and conditions of the lease capable of performance by the holder. The holder shall act within 60 days from the date of receipt of notice under (a) of this section, or within an additional period as the director may allow for good cause.

* Sec. 11. AS 38.05.105 is repealed and re-enacted to read:

Sec. 38.05.105. PERIODIC RENT ADJUSTMENTS. (a) Each lease shall stipulate that at the conclusion of the initial 25-year period of the lease and at intervals of 10 years thereafter the annual rent payment is subject to adjustment. Charges or adjustments shall be based primarily on an adjusted fair market value. However, if the director of the division of lands determines that single-family residential development is the best use of the land, the reappraisal period may be lengthened or the readjustment waived in accordance with regulations adopted by the department. Before a waiver of rent adjustment is issued, the land shall have a current reappraisal. A waiver is valid only if single-family residential development actually occurs. The regulations adopted under this section shall ensure that the state receives a fair return from the land.

(b) The provisions of sec. 85(b) of this chapter are applicable to reappraisals of leases required by this section, except that, in determining an adjusted market value,

(1) changes in property value due to governmental actions, including zoning reclassifications, shall be included; and

(2) changes in property value due to private improvements made to the property or other privately owned or leased property since originally entering into the lease shall be excluded.

* Sec. 12. CONVERSION OF LEASES. The provisions of secs. 9 - 11 of this Act are applicable to state leases which are in existence on or before the effective date of this Act if a lessee under a lease elects, in writing, to be bound by this Act. When a lessee elects to be bound by the provisions of this Act, the state shall enter into a new lease with the lessee for a term equal to the remaining period of the original lease which is being terminated that is consistent with the provisions of this Act. However, for purposes of determining the annual rent by the state, the fair market value of the property which is used to establish the fixed base annual rent for the initial period of the lease may not exceed the fair market value as it was last appraised on or before January 1, 1975, brought forward to January 1, 1976, at the rate of 10 per cent a year, or, if the lease was entered into after January 1, 1975, on the basis of the fair market value at the time the lease was entered into.

* Sec. 13. The provisions of sec. 12 of this Act expire on January 1, 1979.

IV. FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

The findings of the committee were numerous but can be grouped into major categories:

1) State lessees are dissatisfied with the state interpretation of lease contract terms, especially those relating to appraisal. Many lessees testified before the committee as to their grievances.

2) The Division's regulations covering sales and leases are often outdated and conflicting with statutes in some cases.

3) The State's lease contract form is not in line with commercial contracts and has many ambiguities in it.

4) Some state statutes in Title 38.05 are vague and unclear.

5) Payment methods for state sales contracts do not match those used in the private sector and may contribute to ballooning land values.

These findings outline the basis for the committee's recommendations which follow.

The recommendations of the committee concern statute, policy, and regulation changes, and can be grouped by topic.

The following five items are of <u>general concern</u>:

1. The committee wishes to note that in the course of public testimony it was apparent that Division of Aviation lessees had significant problems with their current leases. This subject was not within the scope of the committee's deliberations and, therefore, not addressed.

2. To comply with new statutes the committee recommends a major overhaul of Division of Lands regulations. The committee has found many of the regulations now in effect to be outdated and superseded by statutes.

3. The committee recommends that the Legislature apply the provisions found in Title 38 to those in Title 3, Title 19, and Title 35. The rationale would be to make land laws uniform among the Division of Aviation, Department of Highways, and Division of Lands.

4. Looking to the future, when the Division appraisal workload gets even heavier, the committee recommends that all (or all significant) appraisals be done by contract appraisers, with the Division appraisers functioning as review appraisers.

5. The committee stands opposed to Senate Bill 234, since the needs as outlined in this bill are covered by present legislation; the committee finds SB 234 not in the best interests of the State or the land management of the State.

In order to provide predictability in appraisals and reappraisals, for the benefit of the State and the public, the committee recommends the following:

1. At present many lessees are suffering hardship due to rent increases of several hundred percent. To provide for this relief and as a curative for such future increases the statutory provisions found in section nine of the attached bill are recommended. Provision for optional conversion of present leases to ones that will place a ceiling of 100% on rental increases every five years will largely prevent future hardship cases and resolve satisfactorily the present cases. With a rent ceiling, lease rental increases will be more predictable resulting in more financial stability for the lessee. (The Alaska Industrial Subdivision hearing panel recommends insuring predictability by placing some control over the size of the rental increase through utilization of a ceiling on the size of the increase in rental every five years.)

   Sections 8 and 9 of the attached bill will accomplish the above recommendations.

2. The committee recommends that land offered over the counter be reviewed at 90 to 120 day intervals to determine if an increase in value has occurred. This review is desired so that parcels are not undervalued by progressive changes in the market.

   Section 10 of the attached bill would accomplish this.

3. Since public notice is covered in AS 38.05.345 the change to "appraisal" for AS 38.05.310 is warranted by its present content. The committee recommends that land may be appraised 120 days in advance of a sale or lease. The change from 90 to 120 days would be desirable in that minimum bid information could be given to the public well in advance of the actual sale or lease auction. In addition 11 AAC 54.140 should be repealed.

   Section 10 of the attached bill will accomplish this.

4. In order to provide a workable solution to the problems of confidentiality of appraisal data, the committee recommends that the Director of the Division of Lands refrain from including confidential information in any appraisal prepared for the Division of Lands use.

5. The committee believes that the word "primarily" may imply special consideration to some lessees. In order to treat all lessees fairly and equitably the committee recommends that the word "primarily" be stricken. Deleting "primarily" would clarify the basis for reappraisal. (This was also recommended by the Alaska Industrial Subdivision hearing panel.)

   Section 8 of the attached bill will accomplish this.

To improve <u>accounting policies</u> and <u>administrative procedures</u>, and to protect the State, the purchaser and the lessee, the following are recommended:

1. The committee recommends that the Division of Lands have the option of requiring all sales contracts over $400.00 per year to be paid in quarterly installments instead of annual installments. It is the committee's belief that this would ease the financial strain on the buyer and yet not add significantly to the State's administrative costs. To provide quarterly payments would require a change in AS 38.05.065 with the present annual payments deleted and the quarterly payment provision adopted in its place.

   Section 3 of the attached bill would accomplish this.

2. The committee recommends that a $10.00 fee charge to cover administrative costs be given to those who make sale or lease payments with checks that are returned. It is a standard business practice to provide for such charges and is recommended to protect the State's interests.

3. The committee recommends instituting default charges for late sale or lease payments. At present, there exists no penalty and many payments are late. The form of penalty recommended is notification charges to all delinquent payments and penalty charges to payments delinquent more than 30 s. The notification charge would be $5.00 for the t tice, $20.00 for the second notice and a pc rge of 6 percent of the payment.

It is suggested that the rges be adopted as a regulation under authori 38.05.035(4)(5) as follows:

11 AAC 54.365. Delinquent Payments.

In the event of a delinquent payment, the following charges will apply:

1. A $10.00 penalty for payment with a check that is returned.

2. A $5.00 penalty for notification of payments over thirty-five days late.

3. A $20.00 penalty for a second notification of payments more than fifty days late.

4. A penalty of 6 percent of the rental or sale payment for payments delinquent by more than thirty days.

4. The committee recommends adding the following to the end of 11 AAC 54.190: Upon execution of the contract of sale the director shall cause the original copy of the contract to be recorded in the recording district wherein the property is located.

5. The committee recommends that 11 AAC 58.490 have a section .495 added: Upon execution of the lease the director shall cause the original copy of the lease to be recorded in the recording district wherein the property is located.

6. The committee recommends adding in 11 AAC 58.830 Recordation of Assignments, Modifications, Changes in Rental or Cancellations: Upon any assignment, modification, change in rental or cancellation, the director shall cause to be recorded an original document which recites the changes made in the recording district in which the property is located.

7. The committee recommends that somewhere in 11 AAC 58 a section be added: Fees for Recordation. The Division of Lands shall absorb any expense of recording all existing contracts of sale, leases, assignments, modifications, changes in rent; hereafter the director shall collect the necessary fee for recording any contract of sale, lease, or change of application from the contract purchaser or lessee at the time of execution.

8. The committee recommends that the Attorney General draft for introduction to the next session of the Legislature a statute which will require all state agencies dealing in lands to record any such transaction (including any transaction dealing with plats and subdivisions) and further stating that failure to so record does not impose any liability on the State.

In order to achieve more flexibility and simplicity in handling land disposal transactions, the following are recommended:

1. The committee recommends that the State charge a market rate of interest in its sales contracts. The interest rate, at present 6%, is below market levels and may have contributed to inflated prices at state land sales. By setting interest rates at market levels, the State would help prevent inflated land prices and at the same time return more income to the State. To provide for a market rate of interest in sales contracts, no change in AS 38.05.065 would be required. The addition of a statement of market rate in this statute would be desirable, however.

   Section 3 of the attached bill would accomplish this.

2. The committee recommends that the State adopt a system of level payments in place of declining payments in its sale contracts. The system of level payments is in common use in the business world, and the payment figures are easily set forth in a contract. The disadvantage of the present method is that interest must be recalculated every year and the payments decrease each year. From both the State's and the buyers' viewpoints, the level payment method would be preferred. The State would receive slightly more in interest payments over the contract terms and the buyer would not have to make as high initial payments. To provide level payments would require a change in AS 38.05.065 with the present system deleted and the level payment system adopted in its place.

Sections 2 and 3 of the attached bill would accomplish this.

3. The committee recommends that in Title 38.05 the term "fair market value" be used in place of "fair appraised market value" and "market value." The meaning is felt to be the same in all cases. The committee would like to see one standard term used to avoid confusion and misunderstanding.

   Sections 4, 5, 7, and 13 of the attached bill would accomplish this.

4. The current procedures for informing the public of state lands transactions are covered in AS 38.05.305 and AS 38.05.345. The two procedures do not mesh in a clear manner. The committee recommends that the procedures be clarified in a manner that will be flexible enough to inform the public fully and yet not require multiple advertising for minor negotiated transactions.

   Section 11 of the attached bill will accomplish this.

5. The committee recommends that the Director be given the authority to set the payment period from one to twenty years. This type of flexibility would allow the State and buyers greater market possibilities. To provide for this would require that the installment clause in AS 38.05.065 be deleted and replaced by the one to twenty year provision.

   Section 3 of the attached bill would accomplish this.

6. The committee recommends that the State be given more flexibility to resolve contract of sale violations. This is necessary to prevent foreclosures as the only remedy for minor contract violations.

   Section 3 of the attached bill would accomplish this.

To institute improvements in the <u>leasing system</u>, the following are recommended:

1. To implement the new lease provisions recommended by this committee new lease forms for various types of leases will be required. It is the committee's recommendation that the Division draft new lease forms to comply with the statutes adopted, and that the new forms be reviewed by this committee.

The recommended lease form and attachments in Appendix C accomplish this.

2. The committee recommends that all state leases to other public agencies be at the normal fair market value rate of payment.

   This reflects a regulation change.

3. The committee recommends that state government agencies get out of residential leasing.

   This reflects a policy change.

4. To provide the lessee insurance against a land boom or unexpected increase the committee recommends that rental increases at the five year reappraisal periods not exceed 100 percent of the prior existing annual rental rate. This action would increase the predictability of the lessee's payments. The stability thus created would add significant borrowing power for the lessee to finance improvements on the leased ground.

   Section 8 of the attached bill would accomplish this.

5. The duration of a lease and the economic life of substantial improvements, such as stores or factories, may not coincide. In order to see that state leased land is used in a rational, economically productive manner the committee recommends that lessees of long-term leases be given a renewal option for up to fifteen years. This type of option would grant the lessee more flexibility in maximizing his investment returns, especially during the final years of his lease. It would also increase the lessee's planning possibilities for use of the leased ground. This action would also soften the impact of termination of the lease. Specifically, this would permit a lessee to make substantial repairs to a building when the remaining term of the lease would not otherwise justify it.

   Section 6 of the attached bill would accomplish this.

6. The committee agrees that a lease should be converted at its present classification, and the leaseholder should then have the option to change classification subject to Division of Lands approval.

This is made possible under the attached lease document so that a conversion (assuming passage of HB 383) to a new lease form would permit the leaseholder to change classification at his option.

7. The committee recommends that a level term for recreational leases not be provided.

8. The Alaska Industrial Subdivision hearing panel recommends that in accord with the provisions of the lease, lessees should be encouraged to record expenses incurred in site preparation so that the "original condition" can be more adequately ascertained.

   The Ad Hoc committee concurs. This recommendation is handled in the attached lease document.

9. The Alaska Industrial Subdivision hearing panel recommends that lease language should be clarified to remove any possible inconsistencies with 11 AAC 58.520 (Adjustment of Rental).

   The Ad Hoc committee concurs.

10. The Alaska Industrial Subdivision hearing panel recommends eliminating the floating easement. The State could exercise the right of eminent domain to condemn. The condemnation would probably result in greater compensation for damages to the lessee, especially in view of the Supreme Court decision in State v. Hammer, 550 P.2d 830, thus the lease would be more attractive to the leasing market. Additionally, the language in the current lease is ambiguous as to damages compensable. This ambiguity only encourages litigation.

    The Ad Hoc committee concurs. This has been accomplished in the attached lease form.

11. The Alaska Industrial Subdivision hearing panel states that, if its recommendations are adopted, the State would be assured a competitive position in the lease market. The recommendations would encourage development of the leaseholds consistent with the intent of the leasing regulations and would be equitable to the lessee. The hearing panel also believes the State should be able to obtain a good return on its land. Accordingly, the rental rate should be changed to reflect the removal of the undesirable aspects of the state lease.

The Ad Hoc committee concurs. Continuing to include rate as an appraisal element will accomplish this objective.

This change is found in the attached lease form.

12. In order to set a fixed rental rate on a lease, the committee recommends an addition to A.S.38.05.085:

> amend to add the following sentence after ". . . to protect the interests of the state. The lease rental rate shall remain fixed for the term of the lease and any permitted extensions thereof, unless the leased premises or a portion thereof is reclassified pursuant to provisions of this chapter. A violation of any provision of this chapter . . . ."

To provide a vehicle for arbitrating protests and appeals involving land transactions, the following is recommended:

1. The Division of Lands has had many protests from private parties over the past few years leading the committee to believe that a board of appeals is highly desirable and needed at this time. At present there exists no arbitration board or board of appeals to handle appeals allowed by Division of Lands regulations. The creation of a board of appeals would effect a responsive mechanism for solving most problem cases arising from Division of Lands transactions that affect private parties. The board of appeals would be faster and less costly to private parties than legal recourse, which would still be available. The board is structured to maintain adequate expertise while attempting to eliminate bias in favor of the Division of Lands. This binding appeals board would substitute for the Commissioner in the present appeal process. (The Alaska Industrial Subdivision hearing panel also recommends such an appeal process.)

   Section 14 of the attached bill would accomplish this.

The committee recommends the following to improve trust land management:

1. The committee believes that state trust lands (school, mental health, and university) are now and have been managed at low intensity. These lands may be returning only a fraction of their potential value that could be

realized by a small, full-time management staff. The Division manages these lands at no charge to the various trust funds and receives no reimbursement for its services. Therefore, it has traditionally placed low priority on management of these lands. This committee recommends that the State Legislature authorize each trust board the authority to freely contract with any agency or private firm for the management of its lands for revenue production in accordance with the State's land act.

Section 1 of the attached bill would accomplish this.

2. In order to provide a uniform 55-year limit for all long-term leases the committee recommends deletion of the 99-year provision found in A.S.38.05.070(c) for school lands.

Section 6 of the attached bill would accomplish this.

FSLUPC Staff Paper
November, 1977

Leasing

The objective of this staff report is to make available information about State surface leasing policy, to analyze that policy as it has operated in the past, and to make suggestions which might promote thinking that will lead to more effective use of this land management tool in the future.

Unencumbered owner-operatorship seems to be the foremost goal in American land-tenure policy. This premise was the theme of western development. But an examination of the present tenure situation in the United States shows that at least 63 percent of the residential units are tenant occupied. Even in agriculture we find that tenants operate one out of every eight farms. If the analysis includes the fact that a high proportion of the pepole who do own property hold their rights subject to a real estate mortgage, it appears that unencumbered owner-operatorship is more a goal than a reality.

Is this an unhealthy situation? Not if we see property ownership as the end goal in a dynamic process or recognize that for many the end isn't even ownership but profitable use of the land. Millions of families find it both expedient and wise to use leasing or credit financing as a means to the attainment of their ownership goals. The tenant relationship can also be healthy when we consider that some tenants prefer long term leases to the alternative of actually buying their sites. Many valuable locations in large metropolitan centers have been developed by tenants operating under long-term leases. In these cases, the leases represent a method of real estate financing in which the tenant enjoys a 100 percent loan of the value of the landlord's property. So leasing arrangements can provide a valuable and serviceable function in enhancing the interests of both landlords and tenants. Landlords can lease surplus lands to others and receive a monetary return from properties they do not wish to occupy or operate. Tenants can acquire use and possession rights to the properties held by others.

The policy purpose behind State direction of the land settlement and disposal process is basically a desire to achieve rational, productive management of Alaska's lands. Land disposal regulations are lengthy and complex. But an emphasis is placed on classification and land use planning. The mineral estate can only be leased and never sold, and this disposal program is handled separate of the surface leasing and sales program. The Director of ADL decides which lands will be made available for sale or lease and the limitations, conditions, and terms are set by this officer. Generally land is sold or leased to the highest bidder at public auction, and the appraised value is the basement of acceptable prices. The framework is a rational one, and adequate authority has been placed in the hands of the administrator. Leasing policy is outlined in statute. Maximum term of leases is set at 55 years and they may be renewed for a like term. Until the last Legislature, the annual

rental payment on State leases was subject to adjustment at 5-year intervals based on a current appraisal of rental value. The Director can negotiate small size leases, under $250 annual rental, without the bother of a public sale or auction. Leases may be assigned and/or subleased with the Director's approval, but subleases are limited to improved properties. Finally, lands that are valuable for surface values of a Statewide interest are available only through leasing from the ADL. Tidelands, timber and grazing lands fall into the category of surface classifications which may never be permanently alienated from State ownership.

A review of State leasing activity shows that this tool has been actively used in the 15 years since Statehood.

Classification of Land	1961-71	1972	1973	1974	1975	Leases As Of Dec. 31, 1975
Commercial-Industrial	171	1	0	1	1	152
Residential	65	15	0	2	0	47
Agricultural	25	2	0	1	0	14
Grazing	84	3	8	14	0	66
Private Recreation	638	40	52	39	12	509
Reserved Use	69	2	0	4	0	37
Utility	66	12	12	51	11	127
Commercial	33	5	2	1	2	32
Industrial	41	9	4	22	21	69
Unclassified	35	8	3	9	6	42
Open To Entry	1,469	851	899	574	16	3,161
Resource Management	0	0	8	9	1	17
Total Leases	2,696	948	994	727	70	4,273

The figures terminate as of 1975 because recent data was not immediately available from ADL or published in its annual report. However, 26 new leases were issued in 1976 while 350 were closed, most by OTE. The value of the leases to the State of Alaska has shown a steady growth as well. The face value of State land leases is derived by capitalizing annual rental at 6 percent.

Effective On December 31	Leases Acreage	Value
1971	238,423	$10,589,083.00
1972	256,232	11,470,066.00
1973	182,854	14,868,867.00
1974	214,155	21,361,641.00

Figures for 1975 and 1976 were not available from ADL. The above values came from the 1974 ADL annual report.

The amount of acreage under lease can be compared to that under State land sales contract to put these figures in perspective. Since 1960, only 138,000 acres have been sold by the State while almost twice as many acres are under lease. This is not the perception of the average Alaskan citizen. For instance at the recent Anchorage meeting of the Statewide Public Forum there was wide support for leasing of State lands. But the supporters of leasing favored it as a "new deal", a method not currently used that could be useful in combatting certain abuses. The primary problem that drew attention at the Forum was land speculation. Forum attendees advocated leasing because it could curb speculation and return unearned value increments through the State to the people.

There are a number of reasons that leasing is a valuable tool for land use management. We have discussed some benefits to both the owner and the users of certain property. A primary appeal of leasing to State land management officers is that the State continues to own the land. This means that the State collects a steady stream of revenue from the use of its land, but most important of all, the State maintains some say over how the land is to be used. In comparison to all known methods of land use control, whether through suitability classification, local zoning powers, sale contract covenants, or reversionary clauses, there is no method more effective than ownership. The authority to direct land use is of considerable value to the State.

As Division records indicate, people are willing to lease land for a variety of uses in Alaska. Most of the school, mental health, and university lands in the State are leased rather than sold because the goal is a continuing source of revenue for the trustee. Under the old statute of 5-year reappraisal of lease rental, speculation in leased State land was frustrated because the State eliminated lease interest equity when they regularly readjusted the rental to current market value. To further discourage speculation, unimproved lands cannot be subleased according to the regulations.

These factors should add up to a sucessful program. There are benefits for both parties and a good deal of public acceptance of leasing as a disposal technique for public lands. Financial institutions who were slow to advance financing on land leased from the State have broadened their outlook and even residential development of considerable magnitude has been constructed on leased State lands in Anchorage. Certain adjustments to State land lease contracts would make bankers even more comfortable, but general acceptance of leasing as a land management tool in Alaska appears to be good.

Or so it appeared until the 1977 session of the Legislature. In this session a new land lease law was proposed. It came primarily as a response to ADL's efforts to perform its 5-year reappraisal task in the Alaska Industrial Subdivision near downtown Anchorage. ADL attempted to bring lease rates up to their current market value, and in some cases,

these increases amounted to more than 4,000 percent. This caused considerable consternation among the lease holders. When similar raises shocked lessees in other parts of the State, the political interest was strong enough to focus attention on ADL's leasing program and bring about sweeping changes in the manner in which leaseholds were revalued for rental purposes.

The statutory changes have sparked interest in State leasing policy. The Alaska Advocate quoted real estate consultant Ken Gain as calling the new legislation, "a speculators dream". If this is the effect of the new law, it clearly opposes public sentiment against land speculation in the State, and it certainly doesn't represent the purposes of legislators who responded to the demand for changes in the State leasing program. The amended statute has worried the governing boards of Alaska's trust lands who went so far as to postpone action on a planned disposal in the Fairbanks area. The trust boards are analyzing the effect of the new law on their responsibilities at this time. With this level of interest and concern on the part of the administration, and a leasing program that promotes speculation rather than dampening it as was intended, the issue will provoke additional attention in future Legislative sessions.

What went wrong with the State leasing program? The key issues appear to be day-to-day management of the program and inappropriate application of the leasing technique. Earlier we reviewed the positive reasons for leasing State lands. They included increased public control of land use, a steady income stream, public capture of land value appreciation, and benefits to the lessee in reduced front-end costs and relatively low yearly rentals. But when the State retains ownership in land, it also retains an administrative obligation to manage the property in a competent fashion. This is particularly important with regard to lease management. Uncertainty is the bane of the business world. It has been suggested that State efforts to reappraise property were often executed in a casual manner. This resulted in land valuations that did not reflect current market situations. While lessees are often pleased when reappraisals are late and reflect little increase in value, they are also led into decision making patterns that are economically unrealistic. At first the lease lands are unfair competitors in the midst of property subject to the market system. But when they are finally evaluated in real current market terms, the results are chaotic. A leaseholder who develops property as though it were worth $.25 per foot is placed at a considerable disadvantage when a reappraisal jumps the value per foot to $4.

Property managers who had entered a series of subleases on developed properties based on below market land values were left holding the bag. Squeezed from the top and the bottom they went to Juneau. The rapid inflation of prices in Alaska, chronicled by writers in both of Anchorage's Daily newspapers, produced a situation of extremely volatile land values. In an active market of this kind, lease administrators are severely tested. ADL's response fell short. One reported example is the lease

of State school trust lands for the refinery at North Pole. The reappraisal was completed more than 18 months late. Further, it was arbitrarily halved at the suggestion that the soil conditions on the site were poor. However, soil conditions were never actually evaluated by the appraisal officer. A good leasing program requires good management in order to be effective. Reappraisals must be accurate reflections of current market conditions and they must be timely. Financial centers are understandably wary when a volatile market and ineffecient administration combine to promote uncertainty. When the State retains ownership, they assume an obligation to keep the leaseholder apprised of current conditions and value of the lands he will develop. The public deserves as much, too.

One frequently raised objection to State lease policy is that a lessee spends his money to improve the land, and then the State adds these improvements to the value and charges the lease holder even more at annual rental time. But, in fact, statute requires the State to appraise lands as though they were in their original condition. Often the increase in value will come from public expenditures for roadways, drainage, or sewer projects. Such improvements at public expense should be reflected in property value increases. But, actual site improvements cannot be counted against the developer. Yet memories are often short, and the exact "original conditions" are recollected differently by each side. Another probability is that a market for particular soil conditions will develop because their location is so valuable. As development techiques are mastered, comparable sales on well located bog lands become available and more accurate appraisals are possible. Each of these conditions require competent administration.

The number and caliber of ADL appraisal employees has not kept pace with this increasing responsibility. The appraisal section appears to be understaffed and underpaid if compared to similarly charged sections at the Department of Transportation and appraisers in private industry. This situation has been pointed out before, and thin staffing cannot assume the complete responsibility. It could be more appropriate for policy to spell out that the State will assume the value of site improvements over a 15 or 20 year period. This would provide sufficient time to amortize fill and drainage projects and other site improvements of this nature. It would also relieve ADL of the obligation to "remember" original condition long after the character of a locality might change.

The North Pole refinery lease program points up the arrangement between the trust boards and the Alaska Division of Lands. ADL serves as the management agent for the trust boards. Many have argued that the free services the trust boards receive are a bad deal for both sides. The trust boards believe they have an effecient setup because appraisal, survey, and other management tasks are provided to them at little or no cost. The ADL enjoys the role of servicing the trust lands because it provides a margin of control over lands that would otherwise be a wild card in the State's land ownership pattern. Mental health and university lands which represent most of the 1.2 million acres of trust lands was

to provide revenue for the mental health program, the common school trust fund, and the University of Alaska. The quality of management services available from ADL do not satisfy a revenue maximizing goal. In addition, ADL bears a broader administrative burden from which they earn no revenue, leading to the manpower problems we have already discussed. It appears that either ADL should be paid for their services to the trust boards, or that the trust board should obtain their management services from the private sector.

Another common feeling about leases is that by the end of the lease period, the lessee will have paid more for the land by installment than it would have cost him to buy it outright. This argument has certain red herring aspects. In the first place, few people actually buy land outright, instead they rely on credit arrangements to make purchase feasible. The fact is that, in land sales, interest payments can often exceed the actual price of parcel by the time a payoff period is completed. So this comparison can be misleading. If not interest costs, then opportunity costs must be considered. It is often a benefit to the lessee to be able to avoid large front-end committments of capital. If the lessee does not have to tie up his money in land, then he has the opportunity to put it to more productive use. A farmer might buy equipment or a developer might add another floor to his building. Leasing provides certain tax advantages as well. A lease can be depreciated over its term while fee simple land used for business purposes cannot.

Land ownership is repeatedly mentioned as the land use planners strongest hole card. Unfortunately, this strength has led the ADL to exercise the leasing option in areas unsuited for this technique. Leasing is a excellent means for land management in an active, lively market where land will be intensively used. Areas best suited for leasing are those classified for commercial and industrial purposes. Established residential neighborhoods and high demand recreational areas can also be good opportunities for leasing activity, but the strongest requirement is for good demand, and an active market. Leasing large parcels of rural lands where market activity and economic demand is limited will be less worthwhile. About the only action available to a leaseholder when the rent increases in this situation is minimum development followed by subdivision in order to make payments. (Then the State is forced with a large number of subleases and further administrative woes.) Large tracts are often leased in rural locations when a small tract lease would probably serve the needs of the lease holder. The situations caused by leasing improperly sized tracts for "utility" purposes are unnecessary. Leasing is good policy in the right place, (i.e. where there is an active market for use of the property.)

Another opportunity for leasing is in the area of agricultural land. There is a limited amount of land which is actually suitable for agricultural activity in Alaska. Historically, agriculture has faced stiff competition from sources outside the State. It is often difficult to develop a market for agricultural production sufficiently lucrative to justify the use of the land for that purpose. But while current market

conditions are not particularly receptive to Alaskan agricultural efforts, it would be unwise to allow this fact to lead to the conversion of all of the soils which are suited for farming to other uses. If the State were to lease only the agricultural rights to land, it could accomplish two desired goals. First, by limiting the amount of development latitude available to the leaseholder, the market value of the property is reduced and the State can make suitable lands available for agriculture at a reduced or subsidized annual rental. This could foster agricultural activity at the present time while preserving the lands for agricultural use in the future as well. By leasing the State forecloses the conversion option and retains such a decision for public appraisal at some time in the future. The marketing of limited rights is a relatively new technique. Appraisal of only one of the bundle of rights presents new challenges to the administrators of State lands. The management requirements take on considerable importance in light of the problems caused by poor administration in the past.

Under the requirements of the new lease law, managers of State lands have evidenced reluctance to utilize the leasing tool. In the new leasing statute reappraisal comes after the first 25 years. While this may reduce the appraisal load by reducing the frequency of reappraisal, it also creates a situation in which the State will be unable to adjust lease rental to even keep pace with the rate of inflation. In the current case, the readjusted annual rental shall not exceed 50 percent more than the amount paid yearly during the highest of the initial or preceeding period. People familiar with the rate of inflation in Alaska can see that a 50 percent limitation after 25 years will effectively curb rental adjustments to even less than the rate of inflation. An example of this situation can be demonstrated if we look at what happens to a parcel of land leased by the State in 1977. Appraisal sets the present value at $10,000, and with a lease rate of 6 percent, the annual rental would be $600. The first reappraisal and annual rental adjustment would occur in 2002. If we assume a moderate rate of inflation of 4 percent, the inflated value of the parcel in 2002 would be $26,658. Now this is the value increase caused by inflation alone and does not take into account social overhead expenditures or any other factor which might have also enhanced the value. The annual rental at 6 percent of $26,658 would be approximately $1,600. But the 50 percent increase limitation would prevent the readjusted rate from exceeding $900. Thus, under current statute, the rental adjustment could not even keep pace with a moderate rate of inflation. This does not take into account the other factors which lead to the appreciation of land values. The new State lease law will not only hinder the expansion of the use of the leasing technique, but it will render current leases even less useful for avowed State purposes.

There are many reasons we can expect renewed interest in the leasing statute in upcoming legislatures. As a land management tool, leasing of surface lands demands our attention. The benefits of an active leasing program are many and when properly administered, such a program can

promote economic development that is compatible with the public interest. The thought of leasing public property does not have the same rhetorical zing as that associated with owning private property. But tenancy is common in the United States for a variety of healthy reasons. Additional support for the use of this technique can be heard when assembled Alaskans debate State land disposal policy and discuss means for curing certain abuses. Agriculturists, fighting an uphill battle against climate, market, and reality, want leases of limited land rights for both subsidy and conservation reasons.

However, inappropriate use of the leasing technique has limited its effectiveness in some cases. Oversize parcels leased in areas of limited market activity have led to leasehold abuses. Casual reappraisal and limited staffing have led to inappropriate development on certain lease parcels, and left businessmen uncertain and finally outraged. Over reliance on the lease rather than emphasis on strengthening local land use control institutions has misled administrators as well. Leasing is only one tool of many available to the manager of public lands. Let us take it out, dust it off, and develop policy that will ensure that it is properly used.

The comments, opinions, and facts represented in this report are drawn from a variety of sources. Conversations with a number of ADL officers and review of the Divisions annual report were useful. David McCabe, Don Karibullnikof, and Dr. G. Hayden-Green presented the leasing picture from the private sector. State statutes concerning land and the respective regulations were reviewed as was Commission publication, "Agenda For State Lands".

ANCHORAGE DAILY NEWS December 29, 1977

Education board sues over land lease law

By ROSEMARY SHINOHARA
Daily News Staff Writer

The state Board of Education went to court Wednesday to challenge a land lease law which the board believes threatens a trust fund for schools in Alaska.

The law, passed by the 1977 legislature at the urging of state leaseholders, limited the amount of money the state can charge for state land leases, particularly the amount the base rent can be increased.

The Board of Education lawsuit in state Superior Court said the law is unconstitutional because it would now allow the school trust to receive full market value and compensation for the leases.

CERTAIN state lands are set aside to benefit schools, others benefit mental health programs and universities, and others are "general grant" lands which benefit the state treasury.

The state Division of Lands has not yet converted any leases to comply with the new law. Ted Smith, director of the state Division of Land and Water Management, said he had expected to begin signing the long-awaited lease conversion forms by today.

An assistant state attorney general promised in court Wednesday that the Division of Lands will not process any applications from leaseholders to convert their leases until a decision is made in the Board of Education case.

THE COURT ACTION leaves a group of leaseholders in an industrial subdivision in Mountain View in the middle of a battle between two state entities.

The Mountain View leaseholders spearheaded the drive to change the law in the 1977 legislature, after they were hit with rent increases of as much as 800 percent in 1976.

In November, the leaseholders complained the state was too slow at implementing the law, and held a meeting to discuss what to do about it.

AT THE TIME, Smith said he was waiting for the Attorney General's Office to approve forms for converting the leases. Smith said Wednesday the forms were now at the printer's, and he was prepared to begin processing them until the court action occurred.

To further complicate the issue, the state Attorney General's Office has a conflict in the case, and it has hired a private attorney to argue it on behalf of the state Division of Lands.

When the new law was passed by the legislature, the state attorney general issued an opinion that it was unconstitutional, and recommended the governor veto it. The legislation became law without the governor's signature.

TOM MEACHAM, an assistant attorney general who represented the state Division of Lands in court Wednesday, said the state agreed to withhold converting any leases on school trust lands, including the Mountain View leases, to assure that the private attorney who will handle it would have adequate time to prepare for the case.

A hearing on a move by the Board of Education for a preliminary injunction to prevent the state from implementing the law has been scheduled for Jan. 30 in Anchorage.

Smith said there are about 100 applications from leaseholders seeking to convert their leases, and the bulk of them are on school trust lands in the Anchorage area.

Lowell MacNutt, spokesman for the Mountain View leaseholders, said he's certain the group will move to protect its members' interests, but the leaseholders haven't had time to decide what to do yet.

ANCHORAGE DAILY TIMES, December 29, 1977

State Lease Changes Await Court

By PATTI EPLER
Times Staff Writer

The state division of lands yesterday agreed to hold off issuing or converting leases on school trust land for about a month until a challenge of land lease laws is brought to court.

The state Board of Education yesterday filed suit in Anchorage Superior Court challenging the constitutionality of a land lease law passed by the legislature this year.

That law limits the amount of money the state can charge for lessees and limits the amount of appraised increase. It gives lessees the option of converting their current lease to a new one with more favorable terms including 25 years between appraisals and a maximum lease increase of 50 percent.

The suit, filed shortly before lease conversions by the division were to begin, asks that the law be declared unconstitutional and alleges that the law does not allow the school trust to receive full compensation and fair market value for any sale or lease of school land.

Lease conversions were expected to be approved by the state before Jan. 1, said a division of lands letter on file in court records.

Judge Justin Ripley yesterday heard arguments on a motion by the board to temporarily halt the conversion process. But attorneys for the state agreed to stop the proceedings until preliminary hearings can take place. Those hearings are scheduled for the week of Jan. 30.

Tom Meacham, assistant attorney general who represented the state, said the state has hired private attorney to handle the case because of an apparent conflict. The state agreed to stop the conversions so the attorney would have time to familiarize himself with the case, he said.

Attorney General Avrum Gross said earlier this year that the land lease law might be unconstitutional and recommended that Gov. Jay Hammond veto the bill. However, the bill passed into law without the governor's signature.

The board, a state agency usually represented by the attorney general's office, also was forced to hire a private attorney to argue its case since the lawsuit was directed at the state itself.

(See Page 2, Col. 2)

Board Challenges Lease Law For Creating 'Unfair' Effects

(Continued From Page 1)

B. Richard Edwards, who is representing the board, said yesterday it is the schools themselves, not the board, that will lose money under the new law. But the board, as land trustee, is responsible for the schools financial welfare regarding leases.

An affidavit filed on behalf of the board indicates that large amounts of potential revenue will be lost if leases are converted. Paul Dirksen, a real estate appraiser, said the fixed base annual rent established by the new law "will result in far less than fair market value being received by the state.

"Under prior lease provisions of school land leases, the lease rental was based on appraised fair market value and it was required that the land be reappraised every five years. This process is much more in tune with determining a reasonable return and fair market value for school lands," he said.

Dirksen cited examples of lost revenue in his affidavit. Under the new law, one section of land that would rent for $28,000 per year in the market place, is leased by the state for $6,305 per year. That amount would remain the same for 25 years —until the year 2001 — at which time the lease could increase up to 50 percent or about $9,400. However, in the market place, rental would be about $120,000 in that year, Dirksen said.

ANCHORAGE DAILY NEWS January, 6, 1978

Leaseholders plan suit to implement law

People who hold state land leases in an industrial subdivision in Mountain View plan to file a lawsuit to attempt to require the state to implement a law passed by the 1977 legislature which will result in lower rental rates for them, a spokesman for the leaseholders said Thursday.

At the same time, the leaseholders plan to intervene in a lawsuit between the state Board of Education and the State Division of Land and Water Management, according to Lowell MacNutt of John Bagoy and Associates, spokesman for the leaseholders.

THE LEASES in Mountain View are on school trust lands, and the proceeds from them are earmarked for state educational purposes.

The Board of Education went to court in late December, just as the State Division of Land and Water Management was preparing to convert the leases to conform to the 1977 law.

The education board lawsuit in state Superior Court said the new lease law threatens the school trust fund, and is unconstitutional.

MacNUTT said leaseholders met Wednesday, and decided to intervene in that courtsuit to protect their interests.

The leaseholders believe that Ted Smith, director of the Division of Land and Water Management, tried to get the education board to file suit against him, MacNutt said.

"We feel Smith is arbitrarily dragging his feet."

SMITH WAS attending meetings in Juneau Thursday night and could not be reached for comment.

MacNutt said the leaseholders' hands are tied until the rental situation is resolved. Many of them protested increases assessed by the state before the legislature changed the law, and continued paying their pre-increase rates.

The question of whether they must pay the increased amount for any period of time is unresolved.

The question of how much the leaseholders must pay for the period after which the increase is still unresolved.

As a result, businesses that want to expand, or go out of business, can't do it, MacNutt said.

The Joint Federal-State Land Use Planning Commission for Alaska was created by Congress and the Alaska Legislature to provide a statewide land use planning process that will insure the economic development of the State in a manner that is compatible with the social and economic well-being of the public, their interests, and the environment.

The Commission also is to improve coordination and resolve conflicts between the State, Federal government, and private landowners in the State, and recommend laws, policies and programs to the President, Congress and the Governor of Alaska for a coordinated comprehensive statewide land use planning process.

The Commission, created by the Alaska Native Claims Settlement Act of 1971, is headed by the Governor of Alaska or his full-time Co-Chairman, and by a Federal Co-Chairman appointed by the President of the United States. Four Commissioners are appointed by the Secretary of the Interior, and four by the Governor of Alaska.